United States Department of Labor
Employees' Compensation Appeals Board

J.B., claiming on behalf of his minor child, Appellant **and** **U.S. POSTAL SERVICE, WISCONSIN DELLS POST OFFICE, Wisconsin Dells, WI, Employer**	)))))))))	**Docket No. 26-0442** **Issued: August 19, 2026**

Appearances:
Alan J. Shapiro, Esq., for the appellant[1]
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 April 15, 2026 appellant, through counsel, filed a timely appeal from a March 25, 2026 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (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 OWCP properly determined that appellant received an overpayment of compensation in the amount of $29,782.28 during the period July 17, 2022 through May 17, 2025, for which he was without fault, because he concurrently received FECA

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[1] In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

[2] 5 U.S.C. § 8101 *et seq*.

survivor benefits and Social Security Administration (SSA) survivor benefits on behalf of his minor child, 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 $248.78 from appellant's continuing compensation payments, every 28 days.

FACTUAL HISTORY

On July 16, 2022 the employee, mother of appellant's minor child, passed away in a motor vehicle collision while in the course of her federal employment. In an August 10, 2022 official superior's report of employee's death (Form CA-6), the employing establishment indicated that the employee's retirement coverage was under the Federal Employees Retirement System (FERS).

In an October 3, 2022 claim for compensation by surviving spouse and/or children (Form CA-5), appellant claimed FECA survivor benefits on behalf of the deceased employee's minor child, indicating that the child was born on January 2, 2010, and that he had been appointed as the minor child's legal guardian.[3]

In a July 24, 2023 letter, OWCP notified appellant of the his entitlement to FECA survivor benefits on behalf his minor child, for the period July 16 through August 12, 2023, in the amount of $1,686.46 every 28 days at the 40 percent compensation rate. It further noted that "compensation benefits would be reduced by the amount of the benefits paid under the Social Security Act attributable to the employee's federal service."

By decision dated July 25, 2023, OWCP formally accepted that the employee's death was covered under section 8133 of FECA,[4] and that payment of survivor benefits for her minor child had been approved. It explained that benefits "for a dependent child are paid to the surviving parent or legal guardian." OWCP advised appellant that survivor benefits would be paid to him every 28 days in the amount of $1,686.46. It explained that the amount of $1,686.46 represented 40 percent of the deceased employee's pay rate of $4,567.51 a month.

On April 21, 2025 OWCP provided SSA with a FERS/SSA dual benefits form.

On April 23, 2025 SSA completed the dual benefits form, reporting the deceased employee's SSA survivor benefit rates with and without federal service from July 2022 through December 2024. Beginning July 2022, the SSA rate with federal service was $907.60 and without federal service was $113.40; beginning December 2022, the SSA rate with federal service was $986.50 and without federal service was $123.20; beginning December 2023, the SSA rate with federal service was $1,018.00 and without federal service was $127.10; and beginning December 2024, the SSA rate with federal service was $1,043.40, and without federal service was $130.20.

On May 27 2025 OWCP prepared a FERS offset overpayment calculation worksheet, wherein it detailed the calculation of the appellant's SSA offset overpayment from July 17, 2022 through May 17, 2025. The calculation resulted in a total overpayment amount of $29,782.28.

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[3] The case record establishes that appellant was the biological father of the minor child.

[4] *Supra* note 2 at § 8133.

In a preliminary overpayment determination dated May 27, 2025, OWCP notified appellant that he had received an overpayment of compensation in the amount of $29,782.28 for the period July 17, 2022 through May 17, 2025 because he concurrently received FECA survivor benefits and SSA survivor benefits on behalf of his minor child, without an appropriate offset. It provided its calculation of the overpayment. OWCP further advised appellant of its preliminary overpayment determination that he was without fault in the creation of the overpayment. It requested that he complete an overpayment action request form and an overpayment recovery questionnaire (Form OWCP-20), and submit supporting financial documentation including tax returns, bank account statements, bills and cancelled checks, pay slips, and other records which supported income and expenses listed. Additionally, OWCP notified appellant that he could request a final decision based on the written evidence or a prerecoupment hearing within 30 days.

In a May 30, 2025 letter, OWCP explained that the portion of SSA benefits attributable to the deceased employee's federal service required an offset. It calculated that the 28-day offset amount was $842.95, and that the "new net wage-loss compensation payment will be $947.82."

On June 5, 2025 appellant requested a prerecoupment hearing before a representative of OWCP's Branch of Hearings and Review. He contested the fact and amount of the overpayment, and requested waiver of recovery.

On November 21, 2025, OWCP again requested that appellant complete a Form OWCP-20 and submit supporting financial documentation.

OWCP subsequently received a completed Form OWCP-20. Appellant reported total monthly income of $967.00 in social security benefits, $1,043.00 in supplemental security income (SSI) payments, and $83.78 in state or local welfare payments, totaling $2,093.78. While the form specifically requests that claimants report other income such as FECA compensation, appellant indicated that he had no such income.[5] Appellant also reported total monthly expenses of $2,121.14 and total assets of $316.70. He submitted supporting financial documentation.

A prerecoupment hearing was held on January 6, 2026.

By decision dated March 25, 2026, OWCP finalized the May 17, 2025 preliminary overpayment determination, finding that appellant received an overpayment of compensation in the amount of $29,782.28 during the period July 17, 2022 through May 17, 2025, for which he was without fault, because he concurrently received FECA survivor benefits and SSA survivor benefits on behalf of his minor child, without an appropriate offset. It denied waiver of recovery of the overpayment and required recovery by deducting $248.78 from appellant's continuing compensation payments every 28 days.

[5] The case record establishes that as of June 2025, appellant received FECA survivor benefit compensation payments on behalf of his minor child in the net amount of $947.82, every 28 days.

LEGAL PRECEDENT -- ISSUE 1

Section 8102 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 duty.[6]

A FECA beneficiary may not receive wage-loss compensation concurrently with a federal retirement or survivor annuity.[7] Section 8116(d) of FECA requires that compensation benefits be reduced by the portion of SSA benefits based on age or death that are attributable to federal service.[8]

ANALYSIS -- ISSUE 1

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of $29,782.28 during the period July 17, 2022 through May 17, 2025, for which he was without fault.

The completed April 23, 2025 SSA dual benefits form establishes that for the period July 17, 2022 through May 17, 2025, appellant received SSA survivor benefits on behalf of his minor child attributable, in part, to the employee's federal service. The case record establishes that appellant received FECA survivor benefits on behalf of his minor child for the same period. However, no appropriate offset was made. A claimant cannot receive both FECA survivor benefits and SSA survivor benefits for the same period without an appropriate offset.[9] Consequently, the fact of overpayment has been established.[10]

With regard to the amount of the overpayment, the Board has reviewed OWCP's calculation and concludes that it properly determined that appellant received dual benefits totaling $29,782.28 during the period July 17, 2022 through May 17, 2025. Thus, the Board finds that OWCP properly calculated that appellant was overpaid in the amount of $29,728.28.

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

[6] *Supra* note 2 at § 8102.

[7] *See* 5 U.S.C. § 8116(a), (d); 20 C.F.R. § 10.421(a).

[8] *Id.* at § 8116(d); *V.H., widow of S.H., claiming on behalf of her five minor children*, Docket No. 21-0589 (issued September 10, 2024); *M.Y.*, Docket No. 18-0364 (issued August 16, 2018); *see N.R.*, Docket No. 12-1853 (issued June 10, 2013).

[9] *Supra* note 8.

[10] *See V.H., widow of S.H.*, *supra* note 8; *M.S.*, Docket No. 20-0068 (issued May 14, 2021); *P.B.*, Docket No. 20-0862 (issued November 25, 2020); *R.C.*, Docket No. 19-0845 (issued February 3, 2020); *A.F.*, Docket No. 19-0054 (issued June 12, 2019).

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]

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]

OWCP's procedures provide that as a representative payee has a fiduciary responsibility, "the fact that an overpayment for a claimant/beneficiary must be repaid from the representative's funds is insufficient to justify waiver. If a representative payee is without fault, the waiver issue will be determined as it would be for a without fault claimant who received an overpayment on his or her own behalf (by applying the tests including equity and good conscience)."[17] OWCP's procedures also provide that "[m]inors and those found legally incompetent to handle their own affairs, however, should not be asked to submit information. Requests for information should be sent only to the representative payee."[18]

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[11] 5 U.S.C. § 8129; 20 C.F.R. §§ 10.433, 10.434, 10.436, and 10.437; *see B.G.*, Docket No. 20-0541 (issued April 28, 2021); *A.F.*, *id.*

[12] *B.G., id.*; *A.C.*, Docket No. 18-1550 (issued February 21, 2019); *see Robert Atchison*, 41 ECAB 83, 87 (1989).

[13] 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 Determination,* Chapter 6.400.4a(2), (March 16, 2026).

[14] *Id.* at § 10.437(a)(b).

[15] *Id.* at § 10.438(a); *V.H., widow of S.H., supra* note 10, *P.N.*, Docket No. 20-1159 (issued April 20, 2021); *Ralph P. Beachum, Sr.*, 55 ECAB 442 (2004).

[16] *Id.* at 10.438(b).

[17] *Supra* note 13 at Chapter 6.400.5d(1), (March 16, 2026).

[18] *Id*. at Chapter 6.400.5(d)(4), (March 16, 2026).

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.[19] In order to establish that recovery of the overpayment would defeat the purpose of FECA, appellant must show that he requires substantially all of his income to meet current ordinary and necessary living expenses, and that his assets do not exceed the established limit as determined by OWCP procedures.[20]

In the November 21, 2025 development letter, OWCP explained the importance of providing the completed overpayment questionnaire and financial information. It advised appellant that it would deny waiver if he failed to furnish the requested financial information. OWCP received a completed Form OWCP-20, signed by appellant on December 10, 2025. Appellant reported total monthly income of $967.00 in social security benefits, $1,043.00 in SSI payments, and $83.78 in state or local welfare payments, totaling $2,093.78. While the form specifically requests that claimants report other income such as FECA compensation, appellant indicated that he had no such income. However, the case record establishes that, as of June 2025, appellant received FECA survivor benefit compensation payments on behalf of his minor child in the net amount of $947.82, every 28 days. When properly included, his total monthly income exceeds his total monthly expenses by more than $50.00. Therefore, appellant has not shown that he needs substantially all of his current income to meet current ordinary and necessary living expenses.[21] Consequently, he has not demonstrated that recovery of the overpayment would defeat the purpose of FECA.

The Board also finds that appellant has not established that he was entitled to waiver on the basis that recovery of the overpayment would be against equity and good conscience. Because appellant has not established 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.[22]

[19] 20 C.F.R. § 10.436.

[20] *Supra* note 17.

[21] *See G.V.*, Docket No. 26-0232 (issued June 18, 2026); *C.B.,* Docket No. 25-0246 (issued February 19, 2025); *M.R.,* Docket No. 20-1622 (issued June 30, 2021); *L.D.,* Docket No. 18-1317 (issued April 17, 2019); *William J. Murphy,* 41 ECAB 569, 571-72 (1989).

[22] *Supra* note 19 at § 10.441; *see L.P.,* Docket No. 26-0301 (issued May 29, 2026)*; M.P.,* Docket No. 18-0902 (issued October 16, 2018).

Section 10.441 of OWCP's regulations[23] 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.[24]

ANALYSIS -- ISSUE 3

The Board finds that OWCP properly required recovery of the overpayment by deducting $248.78 from appellant's continuing compensation payments, every 28 days.

In determining whether appellant could repay the overpayment by deducting $248.78 from continuing compensation payments, OWCP took into account his 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.[25] Thus, the Board finds that it properly required recovery of the overpayment by deducting $248.78 from appellant's continuing compensation payments, every 28 days.

CONCLUSION

The Board finds that appellant received an overpayment of compensation in the amount of $29,782.28 during the period July 17, 2022 through May 17, 2025, for which he was without fault, because he concurrently received FECA survivor benefits and SSA survivor benefits on behalf of his minor child, 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 deducting $248.78 from continuing compensation payments, every 28 days.

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[23] *Id.* at § 10.441(a).

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

[25] *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 March 25, 2026 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 19, 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