United States Department of Labor
Employees' Compensation Appeals Board

B.S., Appellant	)	
and	)	**Docket No. 26-0489**
	)	**Issued: August 20, 2026**
U.S. POSTAL SERVICE, AKRON POSTAL ANNEX, Akron, OH, 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
JANICE B. ASKIN, Judge

JURISDICTION

On May 2, 2026 appellant filed a timely appeal from an April 23, 2026 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[2]

ISSUES

The issues are: (1) whether appellant received an overpayment of compensation in the amount of $6,155.92 for the period December 1, 2023 through May 17, 2025, for which she was without fault, because she concurrently received FECA wage-loss compensation and Social

[1] 5 U.S.C. § 8101 *et seq*.

[2] The Board notes that, following the April 23, 2026 decision, 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*.

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 $200.00 from appellant's continuing compensation payments, every 28 days.

FACTUAL HISTORY

On October 31, 2023 appellant, then a 66-year-old clerk/special delivery messenger, filed a traumatic injury claim (Form CA-1) alleging that on that date she sustained left knee and back injuries when a coworker struck her with a mail transportation cart while in the performance of duty. Appellant's supervisor noted on the reverse side of the claim form that appellant's retirement was under the Federal Employees' Retirement System (FERS). OWCP initially accepted the claim for lumbar strain and left knee contusion. It subsequently expanded the acceptance of the claim to include aggravation of left knee osteoarthritis and aggravation of left lumbar radiculopathy. OWCP paid appellant wage-loss compensation on the supplemental rolls commencing December 1, 2023 and periodic rolls commencing April 21, 2024.

On March 31, 2025 OWCP provided SSA with a FERS/SSA dual benefits form.

On an April 2, 2025 completed dual benefits form, SSA reported appellant's SSA age-related retirement benefit rates with and without federal service from November 2023 through December 2024. Beginning November 2023, the SSA rate with federal service was $978.60 and without federal service was $665.40; beginning December 2023, the SSA rate with federal service was $1,009.90 and without federal service was $686.60; beginning January 2024, the SSA rate with federal service was $1,035.00 and without federal service was $686.60; beginning July 2024, the SSA rate with federal service was $1,035.00 and without federal service was $686.60; and beginning December 2024, the SSA rate with federal service was $1,060.80 and without federal service was $703.70.

On June 3, 2025 OWCP adjusted appellant's wage-loss compensation payments to reflect an offset of $329.63 per 28-day pay period for her SSA age-related retirement benefits attributable to her federal service. It accordingly adjusted appellant's net wage-loss compensation payment amount to $2,743.37 per 28-day pay period.

Also on June 3, 2025, OWCP prepared a FERS offset overpayment calculation worksheet, wherein it detailed its calculation of appellant's SSA offset overpayment from December 1, 2023 through May 17, 2025. The calculation resulted in a total overpayment amount of $6,155.92.

In a preliminary overpayment determination dated July 31, 2025, OWCP notified appellant that she had received an overpayment of compensation in the amount of $6,155.92 for the period December 1, 2023 through May 17, 2025 because she concurrently received SSA age-related retirement benefits and FECA wage-loss compensation without an appropriate offset. It further advised her of its preliminary overpayment determination that she was without fault in the creation of the overpayment. OWCP requested that appellant 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, it notified appellant that she could request a final decision based on the written evidence or a prerecoupment hearing within 30 days.

On August 4, 2025 appellant requested a prerecoupment hearing before a representative of OWCP's Branch of Hearings and Review. She contested the fact and amount of the overpayment and requested waiver of recovery. On a completed Form OWCP-20 dated August 4, 2024, appellant reported total monthly income of $3,804.37, total monthly expenses of $2,950.30, and assets totaling $20.00. She provided limited supporting financial documentation.

A prerecoupment hearing was held on February 11, 2026. The hearing representative held the record open for 30 days for the submission of additional evidence.

Appellant subsequently submitted a completed Form OWCP-20 dated March 2, 2026, wherein she reported total monthly income of $3,832.14, total monthly expenses of $4,787.04, and assets totaling $86.43. She submitted limited financial documentation.

By decision dated April 23, 2026, OWCP's hearing representative finalized the preliminary determination that appellant had received an overpayment of compensation in the amount of $6,155.92 for the period December 1, 2023 through May 17, 2025. The hearing representative further found that she was without fault in the creation of the overpayment, but denied waiver of recovery. The hearing representative required recovery of the overpayment by deducting $200.00 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 or death of an employee resulting from personal injury sustained while in the performance of duty.[3] However, section 8116 also 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.[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]

Section 10.421(d) of OWCP's implementing regulations requires that it reduce the amount of compensation by the amount of any SSA benefits that are attributable to the employee's federal service.[6] FECA Bulletin No. 97-09 states that FECA benefits have to be adjusted for the FERS portion of SSA benefits because the portion of the SSA benefit earned as a federal employee is

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[3] 5 U.S.C. § 8102(a).

[4] *Id*. at § 8116.

[5] *Id*. at § 8129(a).

[6] 20 C.F.R. § 10.421(d); *see B.W.*, Docket No. 21-0277 (issued May 6, 2022; *R.R.*, Docket No. 19-0104 (issued March 9, 2020); *T.B.*, Docket No. 18-1449 (issued March 19, 2019); *L.J.*, 59 ECAB 264 (2007).

part of the FERS retirement package, and the receipt of FECA benefits and federal retirement concurrently is a prohibited dual benefit.[7]

ANALYSIS -- ISSUE 1

The Board finds that appellant received an overpayment of compensation in the amount of $6,155.92 for the period December 1, 2023 through May 17, 2025, for which she was without fault, because she concurrently received FECA wage-loss compensation and SSA age-related retirement benefits, without an appropriate offset.

SSA provided a completed dual benefits form showing that appellant was in receipt of SSA age-related retirement benefits since December 1 2023. The case record, however, establishes that appellant received FECA wage-loss compensation for that same period. No appropriate offset was made. As noted, a claimant cannot receive both compensation for wage loss under FECA and SSA age-related retirement benefits attributable to federal service for the same period.[8] Accordingly, the Board finds that fact of overpayment has been established.

With regard to the amount of the overpayment, the SSA provided appellant's SSA rates with federal service and without federal service for the period December 1, 2023 through May 17, 2025. OWCP provided its calculations of the amount that it should have offset during the relevant period based on the information provided by SSA.

The Board has reviewed OWCP's calculation of SSA age-related retirement benefits received by appellant for the period December 1, 2023 through May 17, 2025 and finds that an overpayment of compensation in the amount of $6,155.92 was created.[9]

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.[10] 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.[11]

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[7] FECA Bulletin No. 97-09 (issued February 3, 1997); *see also N.B.*, Docket No. 18-0795 (issued January 4, 2019).

[8] *Id.*

[9] *See M.M.*, Docket No. 23-0129 (issued May 19, 2023); *J.H.*, Docket No. 22-1375 (issued May 16, 2023); *P.M.*, Docket No. 21-0915 (issued December 14, 2021); *K.W.*, Docket No. 20-1169 (issued April 7, 2021); *W.C.*, Docket No. 20-1241 (issued February 9, 2021).

[10] 5 U.S.C. § 8129(a)-(b).

[11] *D.H.*, Docket No. 19-0384 (issued August 12, 2019); *V.H.*, Docket No. 18-1124 (issued January 16, 2019); *L.S.*, 59 ECAB 350 (2008).

Recovery of an overpayment will defeat the purpose of FECA when 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.[12] 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.[13]

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.[14] 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.[15]

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 recovery is still required unless adjustment or recovery of the overpayment would defeat the purpose of FECA or be against equity and good conscience.[16]

On a completed Form OWCP-20 dated August 4, 2024, appellant reported her total monthly income as $3,804.37 and her total monthly expenses as $2,950.30. On a completed Form OWCP-20 dated March 2, 2026, she reported her total monthly income as $3,832.14 and total monthly expenses as $4,787.04. Appellant submitted only limited supporting financial documentation. As such, the evidence of record was insufficient to establish that she needed substantially all of her monthly income to meet her ordinary and necessary living expenses.

The Board further finds that appellant has not established that recovery of the overpayment would be against equity and good conscience because it has not been shown that she would experience severe financial hardship in attempting to repay the debt, or that a valuable right had

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[12] 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) (March 16, 2026).

[13] *Id*. at § 10.437(a)-(b).

[14] *Id*. at § 10.438(a).

[15] *Id*. at § 10.438(b).

[16] 5 U.S.C. § 8129.

been relinquished, or that a position had been changed for the worse in reliance on the payment, which created the overpayment.[17]

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

Section 10.441 of OWCP's regulations 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.[18]

ANALYSIS -- ISSUE 3

The Board finds OWCP properly required recovery of the overpayment by deducting $200.00 from appellant's continuing compensation payments, every 28 days.

In determining whether appellant could repay the overpayment through $200.00 deductions 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.[19] Thus, the Board finds that OWCP properly required recovery of the overpayment by deducting $200.00 from appellant's continuing compensation payments, every 28 days.

CONCLUSION

The Board finds that appellant received an overpayment of compensation in the amount of $6,155.92 for the period December 1, 2023 through May 17, 2025, for which she was without fault, because 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 deducting $200.00 from her continuing compensation payments, every 28 days.

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[17] *L.D.*, Docket No. 18-1317 (issued April 17, 2019); *William J. Murphy*, 41 ECAB 569, 571-72 (1989).

[18] 20 C.F.R. § 10.441(a); *A.S.*, Docket No. 19-0171 (issued June 12, 2019); *Donald R. Schueler*, 39 ECAB 1056, 1062 (1988).

[19] *See J.F.,* Docket No. 24-0054 (issued May 28, 2026); *L.F.*, Docket No. 15-0489 (issued May 11, 2015).

ORDER

IT IS HEREBY ORDERED THAT the April 23, 2026 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 20, 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