

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

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C.S., Appellant)	
)	
and)	
)	Docket No. 25-0908
)	Issued: February 5, 2026
U.S. POSTAL SERVICE, TULSA PROCESSING)	
& DISTRIBUTION CENTER, Tulsa, OK,)	
Employer)	
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Appearances:
Alan J. Shapiro, Esq., for the appellant¹
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 September 23, 2025 appellant, through counsel, filed a timely appeal from a September 8, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

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.*

ISSUE

The issue is whether OWCP properly denied waiver of recovery of the overpayment of compensation for the period December 26, 2023 through January 27, 2024.

FACTUAL HISTORY

This case has previously been before the Board.³ The facts and circumstances set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On May 24, 2022 appellant, then a 54-year-old operations manager, filed an occupational disease claim (Form CA-2) alleging that she had developed right shoulder conditions due to factors of her federal employment, including repetitive lifting and throwing mail sacks weighing 50 to 80 pounds daily. OWCP accepted the claim for right shoulder bursitis; right rotator cuff tear; right shoulder impingement syndrome; right lateral epicondylitis; and right carpal tunnel syndrome. OWCP paid appellant wage-loss compensation on the supplemental rolls effective November 11, 2022, and on the periodic rolls effective January 1, 2023.

Appellant returned to work on December 26, 2023; however, OWCP continued to pay her wage-loss compensation for total disability on the periodic rolls through March 23, 2024.⁴

In a preliminary overpayment determination dated June 11, 2024, OWCP notified appellant that she had received an overpayment of compensation in the amount \$11,954.92 for the period December 26, 2023 through March 23, 2024 because she returned to work on December 26, 2023, but continued to receive wage-loss compensation for total disability through March 23, 2024. It found that appellant was at fault in the creation of the overpayment. OWCP requested that she 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, it provided an overpayment action request form and notified appellant that, within 30 days of the date of the letter, she could request a final decision based on the written evidence or a prerecoupment hearing.

On June 20, 2024 appellant requested a prerecoupment hearing before a representative of OWCP's Branch of Hearings and Review. A hearing was held on September 25, 2024.

By decision dated November 15, 2024, OWCP's hearing representative vacated the June 11, 2024 preliminary overpayment determination and remanded the case for OWCP to obtain confirmation from the employing establishment as to whether appellant had in fact returned to work on December 26, 2023. The hearing representative further instructed OWCP to issue a

³ Docket No. 25-0562 (issued July 29, 2025).

⁴ OWCP paid appellant net compensation *via* electronic funds transfer (EFT) as follows: on December 30, 2023 it paid her \$3,742.93 for the period December 3 through 30, 2023; on January 27, 2024 it paid her \$3,756.29 for the period December 31, 2023 through January 27, 2024; on February 24, 2024 it paid her \$3,711.57 for the period January 28 through February 24, 2024; and on March 23, 2024 it paid her \$3,818.68 for the period February 25 through March 23, 2024.

de novo decision, finding that appellant was without fault in the creation of the overpayment for the period December 26 through 30, 2023 and at fault in the creation of the overpayment for the period December 31, 2023 through March 23, 2024.

In letters dated January 28 and February 20, 2025, OWCP requested that the employing establishment verify the date appellant returned to work, and the type of duty. In a February 27, 2025 response, the employing establishment verified that appellant had returned to full-duty work on December 26, 2023.

In a preliminary overpayment determination dated March 4, 2025, OWCP notified appellant that she had received an overpayment of compensation in the amount \$11,954.92 for the period December 26, 2023 through March 23, 2024, because she returned to work on December 26, 2023, but continued to receive wage-loss compensation for total disability through March 23, 2024. It found that appellant was without fault in the creation of the overpayment. OWCP requested that she submit a completed Form OWCP-20 to determine a reasonable recovery method and advised that she could request waiver of recovery of the overpayment. It further requested that appellant provide financial documentation, including copies of income tax returns, bank account statements, bills, pay slips, and any other records to support his reported income and expenses. Additionally, OWCP further provided an overpayment action request form and notified her that, within 30 days of the date of the letter, she could request a final decision based on the written evidence or a prerecoupment hearing.

On March 11, 2025 appellant requested a prerecoupment hearing before a representative of OWCP's Branch of Hearings and Review. She disagreed with the fact and amount of the overpayment and requested waiver of recovery of the overpayment.

Following a preliminary review, by decision dated April 7, 2025, OWCP's hearing representative vacated the March 4, 2025 preliminary overpayment determination and remanded the case for OWCP to issue a *de novo* decision with proper findings regarding whether appellant was at fault in the creation of the overpayment.

On April 10, 2025 OWCP issued a *de novo* preliminary overpayment determination, finding that an overpayment of compensation in the amount of \$11,954.92 was created for the period December 26, 2023 through March 23, 2024 because appellant returned to work on December 26, 2023 but continued to receive wage-loss compensation for total disability through March 23, 2024. It found that appellant was without fault in the creation of the overpayment for the period December 26 through 30, 2023 because she lacked the requisite knowledge to identify that she was overpaid during that period. OWCP further found, however, that appellant was at fault in the creation of the overpayment for the period December 31, 2023 through March 23, 2024 because she received compensation payments that she knew or reasonably should have known were incorrect. It requested that she submit a completed Form OWCP-20 to determine a reasonable recovery method. OWCP further requested that appellant provide financial documentation, including copies of income tax returns, bank account statements, bills, pay slips, and any other records to support her reported income and expenses. Additionally, it further provided an overpayment action request form and notified her that, within 30 days of the date of the letter, she could request a final decision based on the written evidence or a prerecoupment hearing. No response was received.

By decision dated May 12, 2025, OWCP finalized the preliminary overpayment determination, finding that appellant received an overpayment of compensation in the amount of \$11,954.92 for the period December 26, 2023 through March 23, 2024 because she continued to receive wage-loss compensation for total disability after her return to work. It determined that appellant was without fault in the creation of the overpayment for the period December 26 through 30, 2023. However, she was at fault in the creation of the overpayment for the period December 31, 2023 through March 23, 2024, as she accepted compensation payments that she knew or reasonably should have known to be incorrect. OWCP required recovery of the overpayment by payment in full within 30 days.

Appellant appealed to the Board.⁵ By decision dated July 29, 2025, the Board affirmed in part and reversed in part, finding that OWCP properly determined that appellant received an overpayment of compensation in the amount of \$11,954.92 because she continued to receive wage-loss compensation for total disability following her return to work, during the period December 26, 2023 through March 23, 2024. The Board found that appellant was without fault in the creation of the overpayment for the period December 26, 2023 through January 27, 2024. The case was remanded for OWCP to determine whether appellant was entitled to waiver of recovery of the overpayment for the period December 26, 2023 through January 27, 2024, to be followed by a *de novo* decision. It further found that OWCP properly found appellant at fault in the creation of the overpayment for the period January 28 through March 23, 2024, thereby precluding waiver of recovery for that period of the overpayment.

In an August 8, 2025 letter, OWCP requested that appellant submit a completed Form OWCP-20 to determine whether she was entitled to waiver of recovery of the overpayment for the period December 26, 2023 through January 27, 2024. It further requested that appellant 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 her that she had 30 days to submit the supporting documentation to establish waiver of recovery of the overpayment for the period December 26, 2023 through January 27, 2024. No response was received.

By decision dated September 8, 2025, OWCP denied waiver of recovery of the overpayment for the period December 26, 2023 through January 27, 2024. It required recovery of the overpayment by payment in full within 30 days.

LEGAL PRECEDENT

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.⁶

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

⁵ *Supra* note 3.

⁶ 5 U.S.C. § 8129(a)-(b).

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.⁷ An individual is deemed to meet current ordinary and necessary living expenses if monthly income does not exceed monthly expenses by more than \$50.00.⁸

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.⁹

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.¹⁰ Failure to submit the requested information within 30 days of the request shall result in denial of waiver.¹¹

ANALYSIS

The Board finds that OWCP properly denied waiver of recovery of the overpayment of compensation for the period December 26, 2023 through January 27, 2024.

In its July 29, 2025 decision, the Board affirmed OWCP's May 12, 2025 decision in part, finding that appellant received an overpayment of compensation in the amount of \$11,954.92 for the period December 26, 2023 through March 23, 2024, and that she was at fault in the creation of the overpayment for the period December 26, 2023 through March 23, 2024. Findings made in prior Board decisions are *res judicata* absent further merit review by OWCP under section 8128 of FECA.¹² The Board further found, however, that appellant was without fault in the creation of the overpayment for the period December 26, 2023 through January 27, 2024. The case was

⁷ 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).

⁸ *Id.* at Chapter 6.400.4.a(3); *see also B.M.*, Docket No. 23-0891 (issued January 30, 2024); *N.J.*, Docket No. 19-1170 (issued January 10, 2020); *M.A.*, Docket No. 18-1666 (issued April 26, 2019).

⁹ 20 C.F.R. § 10.437(a)-(b).

¹⁰ *Id.* at § 10.438(a); *B.M.*, *supra* note 8; *M.S.*, Docket No. 18-0740 (issued February 4, 2019).

¹¹ *Id.* at § 10.438; *C.Z.*, Docket No. 25-0798 (issued November 26, 2025); *D.L.*, Docket No. 20-1522 (issued July 27, 2023).

¹² *G.W.*, Docket No. 22-0301 (issued July 25, 2022); *M.D.*, Docket No. 19-0510 (issued August 6, 2019); *Clinton E. Anthony, Jr.*, 49 ECAB 476, 479 (1988).

remanded for OWCP to consider waiver of recovery of the overpayment for the period December 26, 2023 through January 27, 2024, followed by a *de novo* decision.

In its letter to appellant dated August 8, 2025, OWCP explained the importance of providing the completed Form OWCP-20 and supporting financial documentation. Appellant, however, did not submit a completed Form OWCP-20 or provide the necessary financial information. She, however, had the responsibility to provide supporting financial information and documentation to OWCP.¹³ 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.¹⁴

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 for the period December 26, 2023 through January 27, 2024.¹⁵

CONCLUSION

The Board finds that OWCP properly denied waiver of recovery of the overpayment for the period December 26, 2023 through January 27, 2024.¹⁶

¹³ *Id.* at § 10.438; *see also N.J.*, Docket No. 19-1170 (issued January 10, 2020); *S.M.*, Docket No. 17-1802 (issued August 20, 2018).

¹⁴ 20 C.F.R. § 10.438; *C.Z.*, *supra* note 11.

¹⁵ *C.Z.*, *supra* note 11; *E.T.*, Docket No. 22-0234 (issued August 17, 2022); *T.E.*, Docket No. 19-0348 (issued December 11, 2019).

¹⁶ 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).

ORDER

IT IS HEREBY ORDERED THAT the September 8, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 5, 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