

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

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B.Q., Appellant)	
)	
and)	
)	Docket No. 25-0914
)	Issued: February 11, 2026
U.S. POSTAL SERVICE, PARKSIDE STATION)	
POST OFFICE, San Francisco, CA, Employer)	
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Appearances: *Case Submitted on the Record*
Michael B. Lopez, Esq., for the appellant¹
Office of Solicitor, for the Director

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On September 25, 2025 appellant, through counsel, filed a timely appeal from an April 9, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP).² Pursuant to the

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 Appellant submitted a timely request for oral argument before the Board. 20 C.F.R. § 501.5(b). Pursuant to the Board's *Rules of Procedure*, oral argument may be held in the discretion of the Board. 20 C.F.R. § 501.5(a). Counsel requested oral argument on the legal standard required to establish "equity and good conscience." Additionally, counsel requested oral argument on OWCP's failure to consider evidence that it had requested. The Board, in exercising its discretion, denies appellant's request for oral argument because the arguments on appeal can adequately be addressed in a decision based on a review of the case record. Oral argument in this appeal would further delay issuance of a Board decision and not serve a useful purpose. As such, the oral argument request is denied and this decision is based on the case record as submitted to the Board.

Federal Employees' Compensation Act³ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.⁴

ISSUES

The issues are: (1) whether appellant received an overpayment of compensation in the amount of \$50,532.21 for the period March 12, 2022 through September 7, 2024, for which she was without fault, because she concurrently received FECA wage-loss compensation and Social 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 \$599.64 from appellant's continuing compensation payments, every 28 days.

FACTUAL HISTORY

On January 26, 2022 appellant, then a 71-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on January 18, 2022 she experienced sharp pain in her right shoulder when picking up a heavy tray of mail while in the performance of duty. Her supervisor indicated on the claim form that appellant's retirement coverage was under the Federal Employees Retirement System (FERS). OWCP accepted the claim for strain of unspecified muscle, fascia and tendon at shoulder and upper arm level, right arm; other shoulder lesions, right shoulder; strain of muscle/tendon of the rotator cuff of right shoulder; and unspecified rotator cuff tear or rupture of left shoulder. It paid appellant wage-loss compensation on the supplemental rolls commencing March 12, 2022, and on the periodic rolls commencing December 4, 2022.

On July 22, 2024 OWCP provided SSA with a dual benefits form, requesting that it report appellant's SSA age-related retirement benefit rates with and without federal service.

On August 20, 2024 SSA returned the completed form, which reported appellant's SSA age-related retirement benefit rates with and without federal service from April 2020 through January 2024. For the period beginning January 2022, the SSA rate with federal service was \$2,634.50 and without federal service was \$1,058.30. Beginning December 2022, the SSA rate with federal service was \$2,863.60 and without federal service was \$1,150.20. Beginning January 2023, the SSA rate with federal service was \$2,863.60 and without federal service was \$1,159.40. Beginning December 2023, the SSA rate with federal service was \$2,955.20 and without federal service was \$1,196.40. Beginning January 2024, the SSA rate with federal service was \$2,955.20 and without federal service was \$1,202.80.

In a letter dated September 17, 2024, OWCP advised appellant that, effective October 5, 2024, her FECA wage-loss compensation would be offset by her SSA age-related retirement

³ 5 U.S.C. § 8101 *et seq.*

⁴ The Board notes that following the April 9, 2025 decision, appellant submitted additional evidence to OWCP and with her appeal to the Board. 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.*

benefits every 28 days, in the amount of \$1,617.60. Appellant's new net wage-loss compensation payments every 28 days would be \$2,374.82.

In a September 25, 2024 FERS offset overpayment calculation worksheet, OWCP calculated a total overpayment of \$50,532.21 for the period March 12, 2022 through September 7, 2024.

On November 13, 2024 OWCP advised appellant of its preliminary overpayment determination that she had received an overpayment of compensation in the amount of \$50,532.21 for the period March 12, 2022 through September 7, 2024 because she concurrently received FECA wage-loss compensation and SSA age-related retirement benefits, without an appropriate offset. It explained that for the period March 12 through November 30, 2022, appellant received an overpayment in the amount of \$13,718.10; for the period December 1 through 31, 2022, she received an overpayment in the amount of \$1,751.06; for the period January 1 through November 30, 2023, she received an overpayment in the amount of \$18,764.96; for the period December 1 through 31, 2023, she received an overpayment in the amount of \$1,797.46; and for the period January 1 through September 7, 2024, she received an overpayment in the amount of \$14,500.63, for a total overpayment of \$50,532.21. OWCP also made a preliminary determination that appellant was without fault in the creation of the overpayment. It requested that she submit a completed overpayment recovery questionnaire (Form OWCP-20), along with supporting financial documentation, to determine a reasonable recovery method, and advised her that she could request waiver of recovery of the overpayment. Additionally, OWCP 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 precoupment hearing.

In an overpayment action request form postmarked December 11, 2024, appellant requested waiver of recovery of the overpayment and a precoupment hearing before a representative of OWCP's Branch of Hearings and Review. She did not submit a completed Form OWCP-20 or other financial information.

In a January 29, 2025 letter, OWCP's hearing representative advised appellant that her precoupment hearing was scheduled for March 5, 2025. She advised appellant that, in order to make a proper determination on her request for waiver, a completed Form OWCP-20 and supporting financial documentation were required.

OWCP subsequently received a completed Form OWCP-20 dated March 2, 2025. Appellant reported total monthly income of approximately \$10,417.34, total monthly expenses of \$12,000.00, and assets of over \$281,820.61." Supporting financial documentation was received, including bank statements, a copy of her husband's retirement income pay stub, and statements from appellant that reflected certain income and expenses.

A precoupment hearing was held on March 5, 2025. The hearing representative requested that appellant provide additional supporting financial documentation within 30 days.

OWCP subsequently received an April 4, 2025 letter, in which appellant's counsel argued that appellant's residence was currently undergoing extensive repairs and rehabilitation to ensure its safety and accessibility, including major structural repairs to the floor and roof, at a cost of

approximately \$3,000.00 to \$4,000.00 a month. Supporting financial documentation was provided, including credit card statements, bank statements, utility bills, and roofing and renovation invoices.

By decision dated April 9, 2025, OWCP's hearing representative finalized the November 13, 2024 preliminary overpayment determination, finding that appellant received an overpayment of compensation in the amount of \$50,532.21 for the period March 12, 2022 through September 7, 2024 because she concurrently received SSA age-related retirement benefits and FECA wage-loss compensation, without an appropriate offset. She found that appellant was without fault in the creation of the overpayment, but denied waiver of recovery of the overpayment. The hearing representative noted that "no additional evidence was received in support of the overpayment waiver or compromise request." She required recovery of the overpayment by deducting \$599.64 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 his or her duty.⁵ Section 8116 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.⁶

Section 10.421(d) of OWCP's implementing regulations requires OWCP to reduce the amount of compensation by the amount of any SSA age-related retirement benefits that are attributable to the employee's federal service.⁷ FECA Bulletin No. 97-09 provides 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 part of the FERS retirement package, and the receipt of FECA benefits and federal retirement concurrently is a prohibited dual benefit.⁸

ANALYSIS -- ISSUE 1

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of \$50,532.21 for the period March 12, 2022 through September 7, 2024, for which she was without fault, because she concurrently received FECA wage-loss compensation and SSA age-related retirement benefits, without an appropriate offset.

⁵ 5 U.S.C. § 8102(a).

⁶ *Id.* at § 8116.

⁷ 20 C.F.R. § 10.421(d); *G.R.*, Docket No. 21-0209 (issued December 20, 2021); *L.D.*, Docket No. 21-0447 (issued September 28, 2021); *T.B.*, Docket No. 18-1449 (issued March 19, 2019); *S.M.*, Docket No. 17-1802 (issued August 20, 2018).

⁸ FECA Bulletin No. 97-09 (issued February 3, 1997); *G.R., id.; N.B.*, Docket No. 18-0795 (issued January 4, 2019). *See also D.B.*, Docket No. 25-0879 (issued December 18, 2025).

The evidence of record indicates that, while appellant was receiving FECA wage-loss compensation, she was also receiving SSA age-related retirement benefits that were attributable to her federal service, without an appropriate offset. As noted, a claimant cannot concurrently receive FECA wage-loss compensation and SSA age-related retirement benefits attributable to federal service for the same period.⁹ The information provided by SSA established that appellant received SSA age-related retirement benefits that were attributable to her federal service during the period March 12, 2022 through September 7, 2024. No appropriate offset was made to her FECA wage-loss compensation. Thus, the record establishes that she received an overpayment of FECA wage-loss compensation.

To determine the amount of the overpayment, the portion of the SSA age-related retirement benefits that were attributable to federal service must be calculated. SSA provided appellant's age-related retirement benefit rates with federal service and without federal service for the period April 2020, when SSA retirement benefits started, through January 2024. OWCP then calculated the overpayments for each relevant period from March 12, 2022, the date FECA compensation commenced, through September 7, 2024, based on the information provided by SSA. It determined that appellant received an overpayment of compensation totaling \$50,532.21.

The Board has reviewed OWCP's calculations for the period March 12, 2022 through September 7, 2024 and finds that appellant received an overpayment of compensation in the amount of \$50,532.21.

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

Section 10.436 of OWCP's implementing regulations provides that 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 the beneficiary's assets do not exceed a specified amount as determined by OWCP.¹² An individual is deemed to need substantially all of his or her current income to meet current ordinary and necessary living expenses if monthly income does not exceed monthly expenses by more than

⁹ *Id.*

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).

¹² 20 C.F.R. § 10.436(a)(b).

\$50.00.¹³ Also, assets must not exceed a resource base of \$6,200.00 for an individual or \$10,300.00 for an individual with a spouse or dependent plus \$1,200.00 for each additional dependent.¹⁴ An individual's liquid assets include, but are not limited to cash, the value of stocks, bonds, saving accounts, mutual funds, and certificate of deposits.¹⁵ 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.¹⁶

Section 10.437 of OWCP's implementing regulations 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.¹⁷ OWCP's procedures provide that, to establish that a valuable right has been relinquished, an individual must demonstrate that the right was in fact valuable, that he or she was unable to get the right back, and that his or her action was based primarily or solely on reliance on the payment(s) or on the notice of payment.¹⁸

ANALYSIS -- ISSUE 2

The Board finds that this case is not in posture for decision with regard to 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 would be against equity and good conscience.¹⁹

In its April 9, 2025 final overpayment decision, OWCP's hearing representative denied waiver of recovery of the overpayment, noting that "no additional evidence was received in support of the overpayment waiver or compromise request." However, the case record indicates that prior to the April 9, 2025 decision, OWCP received an April 4, 2025 letter, in which appellant's counsel argued that appellant's residence was currently undergoing extensive repairs and rehabilitation to ensure its safety and accessibility, including major structural repairs to the floor and roof, at a cost of approximately \$3,000.00 to \$4,000.00 a month. Supporting financial documentation was

¹³ Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Final Overpayment Determinations*, Chapter 6.400.4a(3) (September 2020).

¹⁴ *Id.* at Chapter 6.400.4a(2).

¹⁵ *Id.* at Chapter 6.400.4b(3).

¹⁶ *Id.* at Chapter 6.400.4b(3)(a), (b).

¹⁷ 20 C.F.R. § 10.437; *see E.H.*, Docket No. 18-1009 (issued January 29, 2019).

¹⁸ *Supra* note 13 at Chapter 6.400.4c(3).

¹⁹ *Supra* note 17. *See D.B.*, Docket No. 25-0879 (issued December 18, 2025).

provided, including credit card statements, bank statements, utility bills, and roofing and renovation invoices. In the case of *William A. Couch*,²⁰ the Board held that, when adjudicating a claim, OWCP is obligated to consider all evidence properly submitted by a claimant and received by OWCP before the final decision is issued. While OWCP is not required to list every piece of evidence submitted, the financial documentation received post-hearing was not considered and addressed by OWCP in the April 9, 2025 final overpayment decision. It is crucial that OWCP consider and address all evidence received prior to the issuance of its final decision, as Board decisions are final regarding the subject matter appealed.²¹

The Board, therefore, finds that this case is not in posture for decision with regard to waiver of recovery of the overpayment. On remand, OWCP shall review all evidence of record relative to this issue.²² Following this and such other further development as deemed necessary, it shall issue a *de novo* decision.²³

CONCLUSION

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of \$50,532.21 for the period March 12, 2022 through September 7, 2024, 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 the case is not in posture for decision with regard to waiver of recovery of the overpayment.

²⁰ 41 ECAB 548 (1990); *see also D.B., id.*; *C.W.*, Docket No. 23-0096 (issued October 2, 2023); *J.R.*, Docket No. 22-0464 (issued April 18, 2023); *S.H.*, Docket No. 19-1582 (issued May 26, 2020).

²¹ *See D.B., id.*; *C.W., id.*; *C.S.*, Docket No. 18-1760 (issued November 25, 2019); *Yvette N. Davis*, 55 ECAB 475 (2004); *William A. Couch, id.*

²² *See M.O.*, Docket No. 22-1376 (issued May 1, 2024).

²³ In light of the Board's disposition of Issue 2, Issue 3 is rendered moot.

ORDER

IT IS HEREBY ORDERED THAT the April 9, 2025 decision of the Office of Workers' Compensation Programs is affirmed in part and set aside in part. The case is remanded for further proceedings consistent with this decision of the Board.

Issued: February 11, 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