

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

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M.F., Appellant)	
)	
and)	
)	Docket No. 26-0054
)	Issued: February 6, 2026
U.S. POSTAL SERVICE, SEVIERVILLE POST OFFICE, Sevierville, TN, Employer)	
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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 October 27, 2025 appellant filed a timely appeal from a September 30, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (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 OWCP properly determined that appellant received an overpayment of compensation in the amount of \$39,318.43 for the period October 1, 2022 through May 17, 2025, for which he was without fault, because he concurrently received FECA wage-loss

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the September 30, 2025 decision, OWCP received additional evidence. 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.*

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 \$750.00 from appellant's continuing compensation payments, every 28 days.

FACTUAL HISTORY

On March 27, 2012 appellant, then a 53-year-old mail processing clerk, filed a traumatic injury claim (Form CA-1) alleging that on March 26, 2012 his left knee buckled when carrying a package while in the performance of duty. He stopped work on the date of injury. OWCP accepted the claim for permanent aggravation of left knee osteoarthritis. It paid appellant wage-loss compensation on the supplemental rolls, effective May 29, 2012, and on the periodic rolls, effective June 3, 2012.

The case record indicates that appellant's retirement coverage is under the Federal Employees Retirement System (FERS).

On May 27, 2025 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 May 28, 2025 SSA returned the completed form, which reported appellant's SSA age-related retirement benefit rates as follows: beginning October 2022, the SSA rate with federal service was \$1,936.80 and without federal service was \$813.20; beginning December 2022, the SSA rate with federal service was \$2,105.30 and without federal service was \$884.00; beginning December 2023, the SSA rate with federal service was \$2,172.60 and without federal service was \$912.20; and beginning December 2024, the SSA rate with federal service was \$2,226.90 and without federal service was \$935.00.

In a letter dated June 10, 2025, OWCP notified appellant that, effective June 14, 2025, his FECA wage-loss compensation would be offset by his SSA age-related retirement benefits every 28 days, in the amount of \$1,192.52.

On August 6, 2025 OWCP advised appellant of its preliminary overpayment determination that he had received an overpayment of compensation in the amount of \$39,318.43 for the period October 1, 2022 through May 17, 2025 because he concurrently received FECA wage-loss compensation and SSA age-related retirement benefits without an appropriate offset. It explained that for the period October 1 through November 30, 2022, appellant received an overpayment in the amount of \$2,259.55; for the period December 1, 2022 through November 30, 2023, he received an overpayment in the amount of \$14,695.81; for the period December 1, 2023 through November 30, 2024, he received an overpayment in the amount of \$15,207.95; and for the period December 1, 2024 through May 17, 2025, he received an overpayment in the amount of \$7,155.12. OWCP found that appellant was without fault in the creation of the overpayment. It requested that he submit a completed overpayment recovery questionnaire (Form OWCP-20) to determine a reasonable recovery method and advised him that he could request waiver of recovery of the overpayment. OWCP further requested that he provide supporting financial documentation, including copies of income tax returns, bank account statements, bills, canceled checks, pay slips, and any other records which 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, he could request a final decision based on the written evidence or a precoupment hearing.

In a completed Form OWCP-20 dated September 2, 2025, appellant reported total monthly income of \$9,005.00, total monthly expenses of \$5,726.00, and total assets of \$30,464.00.

By decision dated September 30, 2025, OWCP finalized the August 6, 2025 preliminary overpayment determination, finding that appellant received an overpayment of compensation in the amount of \$39,318.43 for the period October 1, 2022 through May 17, 2025, because he concurrently received SSA age-related retirement benefits and FECA wage-loss compensation, without an appropriate offset. It found that he was without fault in the creation of the overpayment but denied waiver of recovery of the overpayment. OWCP required recovery of the overpayment by deducting \$750.00 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 his or her duty.³ 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.⁴

Section 10.421(d) of OWCP's implementing regulations requires that OWCP reduce the amount of compensation by the amount of any SSA age-related retirement benefits that are attributable to the employee's federal service.⁵ 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 part of the FERS retirement package, and the receipt of FECA benefits and federal retirement concurrently is a prohibited dual benefit.⁶

ANALYSIS -- ISSUE 1

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of \$39,318.43, for the period October 1, 2022 through May 17, 2025, for which he was without fault, because he concurrently received FECA wage-loss compensation payments and SSA age-related retirement benefits, without an appropriate offset.

The evidence of record indicates that, while appellant was receiving FECA wage-loss compensation, he was also receiving SSA age-related retirement benefits that were attributable to his federal service, without appropriate offset. As noted, a claimant cannot concurrently receive FECA wage-loss compensation and SSA age-related retirement benefits attributable to federal

³ 5 U.S.C. § 8102(a).

⁴ *Id.* at § 8116.

⁵ 20 C.F.R. § 10.421(d); *see S.M.*, Docket No. 17-1802 (issued August 20, 2018); *L.J.*, 59 ECAB 264 (2007).

⁶ FECA Bulletin No. 97-09 (issued February 3, 1997); *see also N.B.*, Docket No. 18-0795 (issued January 4, 2019).

service for the same period.⁷ The information provided by SSA established that appellant received SSA age-related retirement benefits that were attributable to his federal service commencing October 1, 2022. No appropriate offset was made to his FECA wage-loss compensation. Thus, the record establishes that he 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 October 1, 2022 through May 17, 2025. OWCP then calculated the overpayments for each relevant period based on the information provided by SSA and determined that he received an overpayment of compensation totaling \$39,318.43.

The Board has reviewed OWCP's calculations for the period October 1, 2022 through May 17, 2025 and finds that appellant received an overpayment of compensation in the amount of \$39,318.43.

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.⁸ 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.⁹

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.¹⁰ 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 \$50.00.¹¹ 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.¹² An individual's liquid assets include, but are not limited to cash, the value of stocks,

⁷ *Supra* note 5.

⁸ 5 U.S.C. § 8129; 20 C.F.R. §§ 10.433, 10.434, 10.436, and 10.437; *see M.C.*, Docket No. 19-0699 (issued February 12, 2020).

⁹ *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).

¹⁰ 20 C.F.R. § 10.436(a)(b).

¹¹ Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Final Overpayment Determinations*, Chapter 6.400.4a(3) (September 2020).

¹² *Id.* at Chapter 6.400.4a(2).

bonds, saving accounts, mutual funds, and certificate of deposits.¹³ Non-liquid 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.¹⁴

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.¹⁵ 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.¹⁶

ANALYSIS -- ISSUE 2

The Board finds that OWCP properly denied waiver of recovery of the overpayment of compensation.

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.¹⁷

On his completed Form OWCP-20, appellant reported a total of \$30,464.00 in assets. As such, his assets exceeded the allowable resource base.¹⁸ Because he has not established that recovery of the overpayment would defeat the purpose of FECA, it is unnecessary for OWCP to consider whether he needs substantially all of his current income to meet ordinary and necessary living expenses.¹⁹

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.

¹³ *Id.* at Chapter 6.400.4b(3).

¹⁴ *Id.* at Chapter 6.400.4b(3)(a), (b).

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

¹⁶ *Supra* note 11 at Chapter 6.400.4c(3).

¹⁷ *Supra* note 9.

¹⁸ *Supra* note 13.

¹⁹ *S.R.*, Docket No. 20-1416 (issued September 8, 2022); *M.H.*, Docket No. 19-1497 (issued September 9, 2020).

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.²⁰

Section 10.441 of OWCP's regulations²¹ 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.²²

ANALYSIS -- ISSUE 3

The Board finds that OWCP properly required recovery of the overpayment by deducting \$750.00 from appellant's continuing compensation payments, every 28 days.

In determining whether appellant could repay the overpayment through \$750.00 deductions 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.²³ Thus, the Board finds that it properly required recovery of the overpayment by deducting \$750.00 from appellant's continuing compensation payments, every 28 days.

CONCLUSION

The Board finds that appellant received an overpayment of compensation in the amount of \$39,318.43, for the period October 1, 2022 through May 17, 2025, for which he was without fault, as he 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 \$750.00 from his continuing compensation payments, every 28 days.

²⁰ 20 C.F.R. § 10.441; *see M.P.*, Docket No. 18-0902 (issued October 16, 2018).

²¹ *Id.* at § 10.441(a).

²² *Id.*; *see C.M.*, Docket No. 19-1451 (issued March 4, 2020).

²³ *See D.H.*, Docket No. 25-0867 (issued November 25, 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 September 30, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 6, 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