



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 \$647.37 from appellant's continuing compensation payments, every 28 days.

### **FACTUAL HISTORY**

On April 14, 1999 appellant, then a 42-year-old mail processor, filed a traumatic injury claim (Form CA-1) alleging that on that date she sustained a left shoulder strain from sweeping heavy trays of mail while in the performance of duty. OWCP accepted the claim for disorder of bursae and tendons, localized primary osteoarthritis, and rotator cuff sprain of the left shoulder and an unspecified sprain of the right shoulder. It paid appellant wage-loss compensation for partial disability on the periodic rolls effective June 6, 2022.

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

On October 21, 2024 OWCP requested information from SSA regarding potential dual benefits.

OWCP thereafter received a completed dual benefits form from SSA dated October 25, 2024. The form indicated that appellant received SSA age-related retirement benefits as of October 2022 and provided appellant's SSA age-related retirement benefit rates with and without federal service. Beginning October 2022, the SSA rate with federal service was \$2,014.80 and without federal service was \$1,119.80. Beginning December 2022, the SSA rate with federal service was \$2,190.00 and without federal service was \$1,217.20. Beginning January 2023, the SSA rate with federal service was \$2,193.60 and without federal service was \$1,217.20. Beginning December 2023, the SSA rate with federal service was \$2,263.70 and without federal service was \$1,256.10. Beginning January 2024, the SSA rate with federal service was \$2,268.20 and without federal service was \$1,256.10.

On November 26, 2024 OWCP notified appellant that her wage-loss compensation payments would be adjusted to reflect an offset of \$934.25 per 28-day pay period for her SSA age-related retirement benefits attributable to her federal service. Beginning December 1, 2024, OWCP accordingly adjusted appellant's net wage-loss compensation to \$950.75 per 28-day pay period.

OWCP thereafter paid appellant wage-loss compensation for total disability on the supplemental rolls effective June 15, 2025, and on the periodic rolls effective July 13, 2025, in the net amount of \$2,589.49 per 28-day pay period.

In a June 26, 2025 preliminary overpayment determination, OWCP notified appellant that she had received an overpayment of compensation in the amount of \$25,752.48 for the period October 1, 2022 through November 30, 2024 because she concurrently received FECA wage-loss compensation and SSA age-related retirement benefits, without an appropriate offset. It provided an offset overpayment calculation, in which it used the information provided by SSA on October 25, 2024 to calculate the 28-day offset for the relevant periods. OWCP determined that, during the period October 1 through November 30, 2022, appellant received an overpayment in the amount of \$1,799.83; during the period December 1 through 31, 2022, she received an overpayment in the amount of \$994.18; during the period January 1 through November 30, 2023,

she received an overpayment in the amount of \$10,751.10; during the period December 1 through 31, 2023, she received an overpayment in the amount of \$1,029.74; and during the period January 1 through November 30, 2024, she received an overpayment in the amount of \$11,177.63. OWCP further advised appellant of its preliminary determination that she was without fault in the creation of the overpayment and requested that she complete an overpayment action request form and an overpayment recovery questionnaire (Form OWCP-20), and submit supporting financial documentation, including copies of income tax returns, bank account statements, bills, canceled checks, pay slips, and any other records to support income and expenses. Additionally, it notified her that she could request a final decision based on the written evidence or a precoupment hearing within 30 days.

In correspondence dated July 7, 2025, appellant, through her then-representative, acknowledged receipt of the June 26, 2025 preliminary overpayment determination. However, she indicated that she “[did] not want to pursue a hearing or document her financial status on an OWCP[-]20 form.”

By decision dated September 23, 2025, OWCP finalized the June 26, 2025 preliminary overpayment determination, finding that appellant received an overpayment of compensation in the amount of \$25,752.48 for the period October 1, 2022 through November 30, 2024 because she concurrently received SSA age-related retirement benefits and FECA wage-loss compensation, without an appropriate offset. It found that she 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 \$647.37 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.<sup>3</sup> 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.<sup>4</sup>

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.<sup>5</sup> 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.<sup>6</sup>

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<sup>3</sup> 5 U.S.C. § 8102(a).

<sup>4</sup> *Id.* at § 8116.

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

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

## **ANALYSIS -- ISSUE 1**

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of \$25,752.48, for the period October 1, 2022 through November 30, 2024, for which she was without fault, because she 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, she was also receiving SSA age-related retirement benefits that were attributable to her 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 service for the same period.<sup>7</sup> The information provided by SSA established that appellant received SSA age-related retirement benefits that were attributable to her federal service commencing October 1, 2022. 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. OWCP received documentation, wherein SSA provided appellant's age-related retirement benefit rates with federal service and without federal service for the period October 1, 2022 through November 30, 2024. It provided its calculations for each relevant period based on the information provided by SSA and determined that she received an overpayment in the amount of \$25,752.48.

The Board has reviewed OWCP's calculations for the period October 1, 2022 through November 30, 2024 and finds that appellant received an overpayment of compensation in the amount of \$25,752.48.

## **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.<sup>8</sup> 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.<sup>9</sup>

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

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<sup>7</sup> *Supra* note 4.

<sup>8</sup> 5 U.S.C. § 8129(a)-(b).

<sup>9</sup> *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).

not exceed a specified amount as determined by OWCP.<sup>10</sup> 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.<sup>11</sup>

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.<sup>12</sup> 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.<sup>13</sup>

### **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 of recovery of the overpayment 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.<sup>14</sup>

In its preliminary overpayment determination dated June 26, 2025, OWCP explained the importance of providing the completed overpayment recovery questionnaire and supporting financial documentation. It advised appellant that it would deny waiver of recovery if she failed to furnish the requested financial information within 30 days. Appellant, however, declined to submit financial documentation necessary for OWCP to determine if recovery of the overpayment would defeat the purpose of FECA or if recovery would be against equity and good conscience. She did not complete a Form OWCP-20 outlining her income, assets, and expenses. 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.<sup>15</sup>

Accordingly, as appellant did not submit the information required under 20 C.F.R. § 10.438 of OWCP's regulations to determine her eligibility for waiver, the Board finds that OWCP properly denied waiver of recovery of the overpayment compensation.

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<sup>10</sup> 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).

<sup>11</sup> *Id.* at § 10.437(a)-(b).

<sup>12</sup> *Id.* at § 10.438(a).

<sup>13</sup> *Id.* at § 10.438(b).

<sup>14</sup> 5 U.S.C. § 8129.

<sup>15</sup> *Id.* at § 10.438.

### **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.<sup>16</sup>

Section 10.441 of OWCP's regulations<sup>17</sup> 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.<sup>18</sup>

### **ANALYSIS -- ISSUE 3**

The Board finds that OWCP properly required recovery of the overpayment by deducting \$647.37 from appellant's continuing compensation payments, every 28 days.

OWCP's procedures provide that, in instances where the claimant fails to provide the requested financial information, OWCP should set the rate of recovery at 25 percent of the 28-day net compensation amount until the balance of the overpayment is paid in full.<sup>19</sup> In this case, appellant did not submit a completed Form OWCP-20, reporting her income, assets, and expenses with supporting financial documentation prior to OWCP's issuance of the September 23, 2025 final overpayment determination. The Board, therefore, finds that OWCP properly required recovery of the overpayment by deducting \$647.37 from appellant's continuing compensation payments, every 28 days.

### **CONCLUSION**

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of \$25,752.48 for the period October 1, 2022 through November 30, 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 OWCP properly denied waiver of recovery of the overpayment. The Board also finds that OWCP properly required recovery of the overpayment by deducting \$647.37 from appellant's continuing compensation payments, every 28 days.

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

<sup>17</sup> *Id.* at § 10.441(a).

<sup>18</sup> *Id.*; *see C.M.*, Docket No. 19-1451 (issued March 4, 2020).

<sup>19</sup> Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Debt Liquidation*, Chapter 6.500.8c(1) (September 2018).

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 23, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 27, 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