

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

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C.R., Appellant )  
and ) Docket No. 24-0400  
U.S. POSTAL SERVICE, ANTIOCH POST ) Issued: January 29, 2026  
OFFICE, Antioch, CA, Employer )  
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)

*Appearances:*

*Sally F. LaMacchia, Esq.*, for the appellant<sup>1</sup>  
*Office of Solicitor*, for the Director

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

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

**JURISDICTION**

On March 6, 2024 appellant, through counsel, filed a timely appeal from a February 2, 2024 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>2</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of this case.<sup>3</sup>

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<sup>1</sup> 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.

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

<sup>3</sup> The Board notes that, following the February 2, 2024 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.*

## **ISSUES**

The issues are: (1) whether appellant received an overpayment of compensation in the amount of \$21,027.90 for the period November 1, 2010 through July 15, 2023, for which he was without fault, as OWCP failed to properly deduct life insurance premiums from his FECA wage-loss compensation; (2) whether OWCP properly denied waiver of recovery of the overpayment; and (3) whether OWCP properly required recovery of the overpayment by deducting \$932.41 from appellant's continuing compensation payments every 28 days.

## **FACTUAL HISTORY**

This case has previously been before the Board on a different issue.<sup>4</sup> The facts and circumstances as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On July 17, 2001 appellant, then a 44-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that he sustained an employment-related lumbar strain when he slipped and fell on a wet step while delivering mail. OWCP accepted the claim for lumbar strain and right foot plantar fasciitis. It paid appellant wage-loss compensation on the supplemental rolls, effective November 6, 2001, and on the periodic rolls, effective August 7, 2005. Appellant retired from federal employment. He thereafter elected FECA benefits effective August 31, 2008.

OWCP received an October 26, 2010 Office of Personnel Management (OPM) life insurance enrollment information form (Form RI 76-13). The form noted that appellant was paid through September 30, 2010, and the final salary on which appellant's life insurance was based was \$52,749.00. The form further noted appellant's life insurance elections as basic life insurance (BLI) at no reduction; Option A (Standard Option); Option B (Additional Optional Insurance) at 5X with no reduction.

OWCP received a March 1, 2011 OPM Form RI 76-13, which noted the same final salary and life insurance elections. However, the effective date of appellant's elections was noted as November 1, 2010.

In a letter dated March 31, 2023, OPM informed OWCP that, as a compensationer, appellant was eligible to continue the life insurance coverage under the Federal Employees' Group Life Insurance (FEGLI) program. The final base salary on which life insurance coverage was based was \$52,749.00. It requested that OWCP deduct premiums for the following life insurance elections: BLI at no reduction; Option A (Standard Option); Option B (Additional Optional Insurance) at 5X with "Full Reduction (NO OLI)." OPM further noted that on March 1, 2011, OPM had sent OWCP a Form RI 76-13 notifying OWCP "of the NO REDUCTION to the Basic life insurance." It advised that "[a]s of the compensation date this deduction has not been withheld. Please collect for any underpaid premiums for the NO REDUCTION." (Emphasis in the original.) The case record also contains a document entitled Continuation of Life Insurance Coverage as Annuitant or Compensationer (Standard Form (SF) 2818) signed by appellant on August 20, 2008,

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<sup>4</sup> Docket No. 09-1791 (issued June 17, 2010).

indicating that he elected the following life insurance coverages: BLI at no reduction; Option A; Option B at 5X with no reduction.

In a June 6, 2023 letter, OPM clarified that the March 1, 2011 Form RI 76-13 revealed that appellant elected no reduction in his BLI coverage postretirement; however, OWCP failed to collect this amount. OPM indicated that it did not receive an election letter and did a full reduction on the OLI as provided in the March 31, 2023 letter.

In a July 24, 2023 periodic rolls payment report and July 25, 2023 fiscal memorandum, OWCP noted that, pursuant to the March 31, 2023 OPM letter, deductions for BLI and OLI were incorrectly based on the salary of \$46,459.92 instead of \$52,749.00 and no deductions were made for post-retirement basic life insurance (PRBLI) for the period November 1, 2010 through July 15, 2023. It calculated that, based on the correct salary of \$52,749.00, OPM should have deducted \$2,470.80 for BLI and \$25,290.35 for OLI. This created an overpayment of \$17.16 for BLI and \$2,752.35 for OLI. Additionally, OWCP also noted that PRBLI premiums had not been deducted in the amount of \$18,258.29. It calculated an overpayment of \$21,027.80.

In a preliminary overpayment determination dated July 31, 2023, OWCP notified appellant of its preliminary finding that he had received an overpayment of compensation for the period November 1, 2010 through July 15, 2023 in the amount of \$21,027.80, for which he was without fault, because life insurance premiums had not been properly deducted from his FECA compensation. OWCP requested that he complete an overpayment action request form and an overpayment recovery questionnaire (Form OWCP-20), and submit documentation including copies of income tax returns, bank account statements, bills, cancelled checks, pay slips, and other records that support income and expenses. Additionally, it advised him that, within 30 days of the date of the letter, he could request a final decision based on the written evidence or a prerecoupment hearing.

On August 23, 2023 appellant, through counsel, requested a prerecoupment hearing and requested waiver of recovery of the overpayment.

A hearing was held on December 6, 2023 before a representative of OWCP's Branch of Hearings and Review. Appellant acknowledged that the overpayment occurred, but requested that the overpayment be waived, or if collection was necessary, that it be collected at \$125.00 a month.

OWCP thereafter received one page of a Form OWCP-20, wherein appellant reported total monthly income of \$8,344.00. He also reported total monthly expenses of \$8,304.00 including a mortgage of \$3,385.00, food of \$450.00, clothing of \$100.00, utilities of \$800.00, "other expenses" of \$3,215.00, and a student loan of \$354.00. Appellant provided supporting financial documentation, including a student loan bill, and bank and utility statements.

By decision dated February 2, 2024, OWCP's hearing representative finalized the July 31, 2023 preliminary overpayment determination. He found that appellant had received an overpayment of compensation in the amount of \$21,027.90 because life insurance premiums had not been properly deducted from his FECA compensation. Additionally, it found that appellant was without fault in the creation of the overpayment, but denied waiver of recovery of the overpayment, noting that he had submitted only one page of the Form OWCP-20 in response to its July 31, 2023 preliminary overpayment determination. OWCP required recovery of the

overpayment by deducting \$932.41 from appellant's continuing compensation payments, every 28 days.

### **LEGAL PRECEDENT -- ISSUE 1**

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

When an underwithholding of life insurance premiums occurs, the entire amount is deemed an overpayment of compensation because OWCP must pay the full premium to OPM upon discovery of the error.<sup>7</sup>

### **ANALYSIS -- ISSUE 1**

The Board finds that appellant received an overpayment of compensation in the amount of \$21,027.90, for the period November 1, 2010 through July 15, 2023, for which he was without fault, as OWCP failed to properly deduct life insurance premiums from his FECA wage-loss compensation.

In a letter dated March 31, 2023, OPM informed OWCP that, as a compensationer, appellant was eligible to continue the life insurance coverage under the FEGLI program. The final base salary on which life insurance coverage was based was \$52,749.00. It requested that OWCP deduct premiums for the following life insurance elections: BLI at no reduction; Option A (Standard Option); Option B (Additional Optional Insurance) at 5X with "Full Reduction (NO OLI)." OPM further noted that on March 1, 2011, OPM had sent OWCP a Form RI 76-13 notifying OWCP "of the NO REDUCTION to the Basic life insurance." It advised that "[a]s of the compensation date this deduction has not been withheld. Please collect for any underpaid premiums for the NO REDUCTION." (Emphasis in the original.) The case record also contains a document entitled Continuation of Life Insurance Coverage as Annuitant or Compensationer (Standard Form (SF) 2818) signed by appellant on August 20, 2008, indicating that he elected the following life insurance coverages: BLI at no reduction; Option A; Option B at 5X with no reduction. The case record establishes that the appropriate deductions were not made for appellant's life insurance premiums for the period November 1, 2010 through July 15, 2023. The Board thus finds that an overpayment of compensation was created for this period.

With regard to the amount of the overpayment, OWCP explained its calculation that appellant received a total of \$21,027.90 to which he was not entitled, due to the underpayment of life insurance premiums. The Board has reviewed OWCP's calculations and finds that it properly

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<sup>5</sup> 5 U.S.C. § 8102(a).

<sup>6</sup> *Id.* at § 8129(a); 20 C.F.R. §§ 10.434-10.437.

<sup>7</sup> 5 U.S.C. § 8707(d); *see also A.V.*, Docket No. 21-0887 (issued May 12, 2022); *J.H.*, Docket No. 20-0281 (issued May 18, 2021).

determined that appellant received an overpayment of compensation in the amount of \$21,027.90 for the period November 1, 2010 through July 15, 2023.<sup>8</sup>

### **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>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 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

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<sup>8</sup> 5 U.S.C. § 8102; *J.H.*, *id.*; *see I.J.*, Docket No. 19-1672 (issued March 10, 2020); *D.H.*, Docket No. 19-0384 (issued August 12, 2019); *R.W.*, Docket No. 19-0451 (issued August 7, 2019).

<sup>9</sup> 5 U.S.C. § 8129.

<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 2018).

<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).

conscience.<sup>14</sup> However, appellant had the responsibility to provide sufficient financial information and documentation to OWCP, but failed to do so.<sup>15</sup>

In its preliminary overpayment determination, dated July 31, 2023, OWCP requested that appellant provide a completed Form OWCP-20 with supporting financial documentation, including copies of income tax returns, bank account statements, bills, cancelled checks, pay slips, and any other records to support income and expenses. Appellant only provided one page of the requested Form OWCP-20. Although appellant reported total monthly income of \$8,344.00 and total monthly expenses of \$8,304.00, there was an insufficient explanation of the \$3,215.00 of “other expenses” listed on the overpayment recovery questionnaire. Appellant did not submit complete financial information necessary for OWCP to determine if recovery of the overpayment would defeat the purpose of FECA or be against equity and good conscience.

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

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

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

The Board finds that OWCP properly required recovery of the overpayment by deducting \$932.41 from appellant’s continuing compensation payments, every 28 days.

OWCP provided appellant a Form OWCP-20 with its July 31, 2023 preliminary overpayment determination. It afforded him the opportunity to provide appropriate financial information and documentation to OWCP. However, appellant only completed one page of the Form OWCP-20 and did not provide sufficient supporting financial documentation. The overpaid individual is responsible for providing information about income, expenses, and assets as specified by OWCP.<sup>17</sup> When an individual fails to provide the requested financial information, OWCP

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<sup>14</sup> *Supra* note 9.

<sup>15</sup> *Supra* note 13.

<sup>16</sup> 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).

<sup>17</sup> *Id.* at § 10.438(a).

should follow minimum collection guidelines designed to collect the debt promptly and in full.<sup>18</sup> As appellant did not submit sufficient information to OWCP as requested, the Board finds that OWCP properly required recovery of the \$21,027.90 overpayment at the rate of \$932.41 every 28 days from appellant's continuing compensation payments.

### **CONCLUSION**

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of \$21,027.90 for the period November 1, 2010 through July 15, 2023, for which he was without fault, as OWCP failed to properly deduct life insurance premiums from his FECA wage-loss compensation. The Board further finds that OWCP properly denied waiver of recovery of the overpayment and required recovery by deducting \$932.41 from his continuing compensation payments every 28 days.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the February 2, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 29, 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

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<sup>18</sup> Federal (FECA) Procedure Manual, Part 6 -- Debt Liquidation, *Responsibility for the Collection and Settlement of Debts*, Chapter 6.500.8c(1) (September 2018); *see J.A.*, Docket No. 19-1946 (issued July 13, 2020); *Frederick Arters*, 53 ECAB 397 (2002).