

| | | |
|--|---|---------------------------------|
| |) | |
| J.K., Appellant |) | |
| |) | |
| and |) | Docket No. 24-0784 |
| |) | Issued: January 30, 2026 |
| U.S. POSTAL SERVICE, POST OFFICE, |) | |
| Citrus Heights, CA, Employer |) | |
| |) | |

Case Submitted on the Record

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge

² The Board notes that, following the January 31, 2024 decision, OWCP received additional evidence. 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.*

overpayment; and (3) whether OWCP properly required recovery of the balance of the overpayment by deducting the remaining balance of \$238.05 from appellant's next continuing compensation payment.

FACTUAL HISTORY

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

On April 24, 2008 appellant, then a 49-year-old window and distribution clerk, filed a traumatic injury claim (Form CA-1) alleging that on April 21, 2018 she injured her low back, right knee, shoulders, neck, and head when a coworker ran into her while in the performance of duty. She stopped work on April 21, 2008 and returned to work on April 24, 2008. OWCP accepted the claim for lumbar sprain. It subsequently expanded its acceptance of the claim to include neck sprain, thoracic sprain, a sprain of the right knee and leg, and a recurrent episode of severe major depression without mention of psychotic behavior.⁴ OWCP paid appellant wage-loss compensation on the supplemental rolls effective May 1, 2008. It paid her on the periodic rolls effective April 11, 2010.

By decision dated February 28, 2020, OWCP's hearing representative finalized that appellant had received an overpayment of compensation in the amount of \$11,451.43 for the period September 11, 2010 through August 18, 2018 because OWCP failed to properly deduct life insurance premiums from appellant's wage-loss compensation. He further found that appellant was without fault in the creation of the overpayment, but denied waiver of recovery. OWCP's hearing representative required recovery of the overpayment by deducting \$690.63 from appellant's continuing compensation, every 28 days.

Appellant appealed to the Board. By decision dated July 27, 2021, the Board affirmed in part and set aside in part the February 28, 2020 decision. The Board found that appellant had received an overpayment of compensation for the period September 11, 2010 through August 18, 2018 because OWCP improperly deducted her life insurance premiums from her FECA wage-loss compensation. The Board determined, however, that the case was not in posture for decision regarding the amount of the overpayment as OWCP failed to clearly explain how it had calculated the overpayment. The Board further noted that OWCP had reduced the overpayment amount by the amount of an overwithholding of OLI from September 11 through August 18, 2018 but found that such offsets were not allowed as they permitted an unrestricted recovery of the offset portion. The Board remanded the case for OWCP to make proper findings regarding the amount of the overpayment followed by a *de novo* decision.

In correspondence dated June 21, 2023, OWCP indicated that it had issued appellant a payment of \$246.40 for its overdeduction of her OLI premiums. It noted that the overdeduction

³ Docket No. 20-1545 (issued July 27, 2021).

⁴ OWCP had previously accepted that appellant sustained right hip strain, lumbar disc degeneration and protrusion, right knee sprain, and disorders of the sacrum due to a May 10, 2003 employment injury, assigned OWCP File No. xxxxxx807 and lumbar sprain due to a July 14, 2005 employment injury, assigned OWCP File No. xxxxxx597. OWCP has administratively combined appellant's claims, with OWCP File No. xxxxxx734 serving as the master file.

occurred because it deducted \$436.80 using OLI Code X0 when it should have deducted \$190.40 using OLI Code L0, a difference of \$246.40.

In an August 1, 2023 preliminary overpayment determination, OWCP advised appellant of its preliminary finding that she received an overpayment of compensation in the amount of \$11,689.58 for the period September 11, 2010 through August 18, 2018 because it had failed to properly deduct life insurance premiums from her compensation payments. In an attached overpayment memorandum, OWCP provided a detailed explanation of its calculations. It outlined each step taken in determining the amount of the overpayment and included tables showing all of the information considered in its calculations. OWCP first determined the monthly rate for PRBLI for each period, converted this to a deduction amount each 28 days, and divided by 28 to obtain the daily amount, which it multiplied by the number of days and coverage level to find the proper deduction amount for each period, which totaled \$11,689.58. It determined 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 her that she could request waiver of recovery of the overpayment. It also requested that she provide financial documentation including copies of income tax returns, bank account statements, bills, cancelled checks, pay slips, and other records that supported the reported income and expenses. 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 prerecoupment hearing.

On August 27, 2023 appellant requested a prerecoupment hearing before a representative of OWCP's Branch of Hearings and Review. She additionally requested waiver of recovery of the overpayment and provided an incomplete Form OWCP-20 of even date.

A prerecoupment hearing was held on November 17, 2023.

By decision dated January 31, 2024, OWCP's hearing representative finalized that appellant received an overpayment of compensation in the amount of \$11,689.58 for the period September 11, 2010 through August 18, 2018 as OWCP had failed to properly deduct life insurance premiums from appellant's wage-loss compensation. She found that appellant was without fault in the creation of the overpayment, but denied waiver of recovery of the overpayment, noting that she had not submitted any financial information. OWCP's hearing representative noted that appellant had already repaid \$11,451.53 for the overpayment of compensation under the prior debt number, which she determined should be applied to the current overpayment amount, yielding a remaining balance of \$238.05. She found that the remaining would be recovered by deducting \$238.05 from appellant's continuing compensation.

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.⁵ When an overpayment has been made to an individual because of an error of fact or law, adjustment shall

⁵ 5 U.S.C. § 8102(a).

be made under regulations prescribed by the Secretary of Labor by decreasing later payments to which the individual is entitled.⁶

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.⁷

ANALYSIS -- ISSUE 1

The Board finds that appellant received an overpayment of compensation, for which she was without fault, in the amount of \$11,689.58 for the period September 11, 2010 through August 18, 2018.

The Board previously found that fact of overpayment had been established for the period September 11, 2010 through August 18, 2018 because OWCP failed to properly deduct appellant's life insurance premiums for this period. Findings made in prior Board decisions are *res judicata* absent further merit review by OWCP under section 8128 of FECA.⁸ The Board, however, remanded the case for OWCP to recalculate the amount of the overpayment and issue a *de novo* decision clearly explaining its calculations.

On remand, OWCP issued appellant a payment of \$246.40 for its overdeduction of her OLI premiums. It then issued an August 1, 2023 preliminary overpayment determination, wherein OWCP advised appellant of its preliminary finding that she received an overpayment of compensation in the amount of \$11,689.58 for the period September 11, 2010 through August 18, 2018 because it had failed to properly deduct life insurance premiums from her compensation payments. In an attached overpayment memorandum, OWCP thoroughly explained its calculations. It outlined each step taken in determining the amount of the overpayment and included tables showing all of the information considered in its calculations. OWCP first determined the monthly rate for PRBLI for each period, converted this to a deduction amount each 28 days, and divided by 28 to obtain the daily amount, which it multiplied by the number of days and coverage level to find the proper deduction amount for each period, which totaled \$11,689.58.

The Board has reviewed OWCP's calculations for the period September 11, 2010 through August 18, 2018 and finds that appellant received an overpayment of compensation in the amount of \$11,689.58.

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

⁶ 20 C.F.R. §§ 10.434-10.437; *J.L.*, Docket No. 18-0212 (issued June 8, 2018).

⁷ 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).

⁸ *C.G.*, Docket No. 23-1074 (issued February 27, 2024); *M.J.*, Docket No. 20-1565 (issued January 24, 2023); *B.D.*, Docket No. 20-1365 (issued December 21, 2022); *Clinton E. Anthony, Jr.*, 49 ECAB 476, 479 (1998).

recovery would defeat the purpose of FECA or would be against equity and good conscience.⁹ The waiver or refusal to waive an overpayment of compensation by OWCP is a matter that rests within OWCP's discretion pursuant to statutory guidelines.¹⁰

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 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.¹¹ 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.¹²

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 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.¹³ 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.¹⁴

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 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.¹⁵

In its August 1, 2023 preliminary overpayment determination, OWCP explained the importance of providing the completed Form OWCP-20 and current financial information, including copies of income tax returns, bank account statements, bills, pay slips, and any other

⁹ 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).

¹⁰ *A.C.*, Docket No. 18-1550 (issued February 21, 2019); *see Robert Atchison*, 41 ECAB 83, 87 (1989).

¹¹ 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).

¹² *Id.* at § 10.437(a)(b).

¹³ *Id.* at § 10.438(a); *M.S.*, Docket No. 18-0740 (issued February 4, 2019).

¹⁴ *Id.* at § 10.438(b).

¹⁵ *See J.R.*, Docket No. 17-0181 (issued August 12, 2020); *L.S.*, 59 ECAB 350 (2008).

records to support income and expenses. However, she only submitted an incomplete Form OWCP-20. OWCP, therefore, did not have the necessary current financial information to determine if recovery of the overpayment would defeat the purpose of FECA or if recovery would be against equity and good conscience.¹⁶

Consequently, 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.¹⁷

Section 10.441 of OWCP's regulations¹⁸ provides 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 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.¹⁹

When an individual fails to provide requested information regarding income, expenses, and assets, OWCP should follow minimum collection guidelines. OWCP's procedures provide that, in these instances, 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.²⁰

ANALYSIS -- ISSUE 3

The Board finds that OWCP properly required recovery of the overpayment by deducting the remaining balance of \$238.05 from appellant's continuing compensation.

In determining whether appellant could repay the remaining balance of \$238.05 by deducting from her continuing compensation, OWCP took into account the 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.²¹ Thus, the Board finds that OWCP properly required recovery of the overpayment by deducting the remaining balance of \$238.05 from appellant's continuing compensation.

¹⁶ *E.M.*, Docket No. 22-0081 (issued August 22, 2022); *D.C.*, Docket No. 19-0118 (issued January 15, 2020); *E.M.*, Docket No. 19-0857 (issued December 31, 2019).

¹⁷ *Id.* at § 10.441; *see M.P.*, Docket No. 18-0902 (issued October 16, 2018).

¹⁸ *Id.* at § 10.441(a).

¹⁹ *Id.*; *see L.G.*, Docket No. 19-1274 (issued July 10, 2020).

²⁰ *Supra* note 11 at Chapter 6.500.8c(1) (September 2018).

²¹ *See 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).

CONCLUSION

The Board finds that appellant received an overpayment of compensation, for which she was without fault, in the amount of \$11,689.58 for the period September 11, 2010 through August 18, 2018. The Board further finds that OWCP properly denied waiver of recovery of the overpayment and properly required recovery of the overpayment by deducting the remaining balance of \$238.05 from appellant's continuing compensation.

ORDER

IT IS HEREBY ORDERED THAT the January 31, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 30, 2026
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board