United States Department of Labor
Employees' Compensation Appeals Board

W.D., Appellant	)	
and	)	**Docket No. 26-0337**
	)	**Issued: July 21, 2026**
U.S. POSTAL SERVICE, PROVIDENCE PROCESSING AND DISTRIBUTION CENTER, Providence, RI, Employer	)	

Appearances:
Appellant, pro se
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 February 26, 2026 appellant filed a timely appeal from a January 30, 2026 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (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 $12,523.90 for the period November 1, 2024 through February 22, 2025, for which he was without fault, as he concurrently received Office of

[1] 5 U.S.C. § 8101 *et seq.*

[2] The Board notes that, following the January 30, 2026 decision, appellant submitted additional evidence to OWCP. However, the Board's *Rules of Procedures* 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.*

Personnel Management (OPM) retirement benefits and FECA wage-loss compensation; and (2) whether OWCP properly denied waiver of recovery of the overpayment.

FACTUAL HISTORY

On April 26, 2015 appellant, then a 67-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that, on that date, he sustained injuries to his neck, back, upper extremities, and lower extremities when he picked up a heavy mail sack while in the performance of duty. He stopped work on the date of injury. OWCP accepted appellant's claim for sprain, rotator cuff tear, and rotator cuff arthropathy of the left shoulder. It paid him wage-loss compensation for disability from work on the supplemental rolls, effective June 11, 2015, and on the periodic rolls, effective October 18, 2015. Appellant retired from the employing establishment in late-2024.

On February 21, 2025 appellant elected, effective November 1, 2024, to receive retirement benefits from OPM in lieu of FECA benefits.

In a March 7, 2025 letter, OWCP informed OPM that appellant had elected to receive retirement benefits from OPM effective November 1, 2024, in lieu of FECA benefits. It requested that OPM commence monthly annuity payments effective November 1, 2024. OWCP also requested that OPM reimburse OWCP the amount of $12,523.90 for FECA benefits paid during the period November 1, 2024 through February 22, 2025.

In a March 20, 2025 letter to OWCP, OPM advised that it began making payments to appellant effective November 1, 2024, and that since the effective date of its benefits preceded the date that FECA benefits were terminated, OWCP had indicated that "there was an overpayment of $12,523.90."[3] In addition, OPM sent OWCP a March 20, 2025 OPM form (Form RI 20-8) which indicated that an "annuity commenced effective" November 1, 2024.

OWCP also sent a form to OPM containing questions to be answered regarding OPM benefits received by appellant. On April 7, 2025 it received the form, after completion by an OPM official on March 31, 2025, wherein it was indicated that appellant submitted an application for OPM benefits; that on November 1, 2024 he began to receive OPM benefits in the monthly amount of $3,085.00; and that he was currently being paid OPM benefits.

On December 9, 2025 OWCP issued a preliminary overpayment determination that an overpayment of compensation was created in the amount of $12,523.90 for the period November 1, 2024 through February 22, 2025, as appellant received prohibited dual benefit payments. It explained that the overpayment occurred because he concurrently received both OPM retirement annuity benefits and FECA compensation benefits during this period. OWCP also made a preliminary determination that appellant was without fault in the creation of the

[3] OPM further indicated that OWCP had paid appellant for the period November 1, 2024 through February 22, 2025 and noted, "We have collected $10,000.00 from accrued annuity but are unable to collect the remaining balance until you send us a collection schedule (that is, the number of installments due and the amount of each installment). We also require verification that you have given the individual due process."

overpayment.[4] It provided appellant an overpayment action request form and an overpayment recovery questionnaire (Form OWCP-20) and afforded him 30 days to respond. No response was received.

By decision dated January 30, 2026, OWCP finalized the preliminary overpayment determination, finding that appellant received an overpayment of compensation in the amount of $12,523.90 for the period November 1, 2024 through February 22, 2025, for which he was without fault, as he concurrently received OPM retirement benefits and FECA wage-loss compensation. However, it denied waiver of recovery of the overpayment as he had not submitted the requested financial information. OWCP required recovery of the overpayment by payment in full within 30 days.[5]

LEGAL PRECEDENT -- ISSUE 1

Section 8102(a) of FECA provides that the United States shall pay compensation for the disability of an employee resulting from personal injury sustained while in the performance of his or her federal employment.[6] 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.[7] Section 10.421(a) of OWCP's implementing regulations provides that a beneficiary may not receive wage-loss compensation concurrently with a federal retirement or survivor annuity.[8] The beneficiary must elect the benefit that he or she wishes to receive.[9] OWCP's procedures also explain that the employee must make an election between FECA benefits and OPM benefits.[10]

The Board has held that a FECA beneficiary may not receive wage-loss compensation concurrently with a federal retirement or survivor annuity.[11] The clear language of section

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[4] OWCP stated, "Please note, the OPM advised that under the exception provided in [31 C.F.R. § 901.3(b)(4)(iii)(C)], they have collected $10,000.00 from your accrued annuity to be applied toward the overpayment. As of the date of this letter, we have not received this remittance from OPM. Once it is received, your overpayment balance will be $2,523.90."

[5] In connection with its finding that he received a $12,523.90 overpayment, OWCP stated, "Please note, the OPM advised that under the exception provided in [31 C.F.R. § 901.3(b)(4)(iii)(C)], they have collected $10,000.00 from your accrued annuity to be applied toward the overpayment. As of the date of this letter, we have not received this remittance from OPM."

[6] 5 U.S.C. § 8102(a).

[7] *Id.* at § 8116.

[8] 20 C.F.R. § 10.421(a).

[9] *Id.*

[10] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Dual Benefits*, Chapter 2.1000.4a (January 1997); *see also S.C.,* Docket No. 25-0825 (issued December 17, 2025); *Harold Weisman*, Docket No. 93-1335 (issued March 30, 1994).

[11] 5 U.S.C. § 8116(a).

8116(a) of FECA, section 10.421(a) of OWCP's implementing regulations, and OWCP's procedures prohibit the concurrent receipt of FECA wage-loss benefits and a federal annuity.[12]

ANALYSIS -- ISSUE 1

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of $12,523.90 for the period November 1, 2024 through February 22, 2025, for which he was without fault, as he concurrently received OPM retirement benefits and FECA wage-loss compensation.

The case record establishes that appellant received FECA wage-loss compensation on the periodic rolls commencing October 18, 2015. In late-2024, appellant retired from the employing establishment. On February 21, 2025 he elected to receive retirement benefits from OPM in lieu of FECA compensation benefits, effective November 1, 2024. OPM confirmed that it began paying appellant retirement benefits effective November 1, 2024. Appellant, however, continued to receive FECA wage-loss compensation through February 22, 2025. As explained above, a FECA beneficiary may not receive wage-loss compensation concurrently with a federal retirement or survivor annuity.[13] The clear language of section 8116(a) of FECA, section 10.421(a) of OWCP's implementing regulations, and OWCP's procedures prohibit the concurrent receipt of FECA wage-loss compensation and a federal annuity.[14] Therefore, the Board finds that an overpayment of compensation was created.[15]

With regard to the amount of the overpayment, OWCP provided its calculations showing that appellant received $12,523.90 in FECA wage-loss compensation for the period November 1, 2024 through February 22, 2025. The Board has reviewed OWCP's calculations and finds that it properly determined that appellant received prohibited dual benefits totaling $12,523.90.

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.[16]

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

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[12] *See id.*; 20 C.F.R. § 10.421(a); Federal (FECA) Procedure Manual, *supra* note 10. *See also J.B.,* Docket No. 22-1301 (issued March 26, 2024); *R.S.*, Docket No. 11-0428 (issued September 27, 2011).

[13] *Supra* notes 5-7.

[14] *Id. See also E.G.*, 26-0308 (issued May 29, 2026); *M.G.,* Docket No. 20-0867 (issued October 13, 2021).

[15] *Id.*

[16] 5 U.S.C. § 8129(a)-(b).

beneficiary's assets do not exceed a specified amount as determined by OWCP.[17] 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.[18]

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.[19] 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.[20]

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. As noted above, even if a claimant is found without fault in the creation of the overpayment, recovery of the overpayment is still required unless adjustment or recovery of the overpayment would defeat the purpose of FECA or would be against equity and good conscience.[21]

In its December 9, 2025 preliminary overpayment determination, OWCP explained the importance of providing the completed Form OWCP-20 and supporting financial documentation. Appellant, however, did not provide the requested financial information prior to OWCP's January 30, 2026 final overpayment determination. 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.[22]

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[17] 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).

[18] *Id.* at § 10.437(a)-(b).

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

[20] *Id.* at § 10.438(b).

[21] *Supra* note 13.

[22] 20 C.F.R. § 10.438.

Consequently, as appellant did not submit the information required under 20 C.F.R. § 10.438 of OWCP's regulations, which was necessary to determine eligibility for waiver, the Board finds that OWCP properly denied waiver of recovery of the overpayment.[23]

CONCLUSION

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of $12,523.90 for the period November 1, 2024 through February 22, 2025, for which he was without fault, as he concurrently received OPM retirement benefits and FECA wage-loss compensation. The Board further finds that OWCP properly denied waiver of recovery of the overpayment.[24]

ORDER

IT IS HEREBY ORDERED THAT the January 30, 2026 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 21, 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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[23] *See E.T.*, Docket No. 22-0234 (issued August 17, 2022); *T.E.*, Docket No. 19-0348 (issued December 11, 2019).

[24] With respect to recovery of the overpayment of compensation, the Board's jurisdiction is limited to reviewing those cases where OWCP seeks recovery from continuing compensation benefits under FECA. As appellant is no longer receiving wage-loss compensation, the Board does not have jurisdiction with respect to the recovery of the overpayment under the Debt Collection Act. *See T.C.*, Docket No. 21-0612 (issued December 2, 2021); *R.W.*, Docket No. 18-1059 (issued February 6, 2019); *Cheryl Thomas*, 55 ECAB 610 (2004).