United States Department of Labor
Employees' Compensation Appeals Board

C.C., Appellant	)	
and	)	**Docket No. 26-0404**
	)	**Issued: July 2, 2026**
DEPARTMENT OF THE NAVY, MILITARY SEALIFT COMMAND, Norfolk, VA, Employer	)	

Appearances:
Appellant, *pro se*
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On March 27, 2026 appellant filed a timely appeal from a March 17, 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 $6,568.80 for the period April 20, 2025 through January 24, 2026, for which he was without fault, because he improperly received wage-loss compensation at an augmented rate, to which he was not entitled; (2) whether OWCP properly

[1] 5 U.S.C. § 8101 *et seq*.

[2] The Board notes that, following the March 17, 2026 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*.

denied waiver of the recovery of the overpayment; and (3) whether OWCP properly required recovery of the overpayment by deducting $180.00 from appellant's continuing compensation payments, every 28 days.

FACTUAL HISTORY

On December 18, 2024 appellant, then a 57-year-old electronic technician, filed a notice of recurrence (Form CA-2a) alleging a recurrence of disability and need for medical treatment commencing August 21, 2024, causally related to the accepted March 12, 2021 employment injury under OWCP File No. xxxxxx130.[3] He explained that the recurrence occurred due to reaching overhead to install smoke detectors. On the Form CA-2a, appellant listed a spouse as a dependent. OWCP converted the recurrence claim into a new traumatic injury claim, assigned OWCP File No. xxxxxx878, and accepted the claim for incomplete rotator cuff tear, strains of the longhead of the biceps tendon and rotator cuff, acromioclavicular joint osteoarthritis, and labral degeneration of the right shoulder. It paid him wage-loss compensation on the supplemental rolls effective April 20, 2025, and on the periodic rolls effective July 13, 2025 at the augmented compensation rate of 75 percent (3/4) for employees with an eligible dependent.

Appellant submitted claims for compensation (Form CA-7) dated May 3, 2025 through July 12, 2025, which did not list any dependents. He also submitted a signed and completed financial disclosure statement (Form EN-1032) dated November 26, 2025 covering the preceding 15-month period, in which he indicated that he was not married.

In a letter dated January 23, 2026, OWCP outlined appellant's entitlement to wage-loss compensation benefits for total disability commencing January 25, 2026 at a basic pay rate of 66 2/3 percent (2/3) for employees with no eligible dependents.

In a preliminary overpayment determination dated February 5, 2026, OWCP notified appellant of its preliminary finding that he received an overpayment of compensation in the amount of $6,568.80 for the period April 20, 2025 through January 24, 2026, because he received compensation at the augmented 3/4 rate instead of the basic 2/3 rate when he had no dependents. It noted that he had received a total of $54,719.73 in wage-loss compensation at the augmented rate based on an eligible dependent from April 20, 2025 through January 24, 2026 but was only entitled to receive $48,150.93 in compensation based on the appropriate 2/3 rate for lack of an eligible dependent, resulting in a $6,568.80 overpayment. OWCP further advised appellant of its preliminary determination that he was at fault in the creation of the overpayment. It also forwarded an overpayment action request form and an overpayment recovery questionnaire (Form OWCP-20) and requested that he submit supporting financial documentation, including income tax returns, bank account statements, bills and cancelled checks, pay slips, and any other records to support his reported income and expenses. Additionally, OWCP notified appellant that, within 30 days of

[3] Under OWCP File No. xxxxxx130, appellant filed a traumatic injury claim (Form CA-1) alleging that on March 12, 2021 he sustained a right shoulder injury when he restored a repaired waterline security light while in the performance of duty. OWCP accepted that claim for strains of the right rotator cuff and longhead of the biceps tendon and superior glenoid labrum lesion. It administratively combined OWCP File Nos. xxxxxx878 and xxxxxx130, with the latter serving as the master file.

the date of the letter, he could request a final decision based on the written evidence, or a prerecoupment hearing.

In an overpayment action request form and supporting statement dated February 10, 2026, appellant disputed that he was at fault in the creation of the overpayment and requested review of the written evidence and waiver of the overpayment.

Appellant submitted a Form OWCP-20 signed on February 10, 2026 in which he reported total monthly income of $4,200.00; total monthly expenses of $4,250.00; and total assets of $194,000.00. He did not submit supporting financial documentation.

By decision dated March 17, 2026, OWCP finalized its preliminary overpayment determination, as modified, finding that appellant had received an overpayment of compensation in the amount of $6,568.80 for the period April 20, 2025 through January 24, 2026 because he improperly received augmented compensation without having eligible dependents. It found him without fault in the creation of the overpayment but denied waiver of recovery of the overpayment. OWCP required recovery of the overpayment by deducting $180.00 from appellant's continuing compensation payments, every 28 days.[4]

LEGAL PRECEDENT -- ISSUE 1

FECA provides that the United States shall pay compensation for the disability or death of an employee resulting from a personal injury sustained while in the performance of duty.[5] If the disability is total, the United States shall pay the employee during the period of total disability the basic compensation rate of 66 2/3 percent of his or her monthly pay. A disabled employee is entitled to an augmented compensation rate of 75 percent if he or she has one or more dependents.[6] A spouse is considered an employee's dependent if he or she is a member of the same household, is receiving regular contributions from the employee for his or her support, or if the employee has been ordered by a court to contribute to his or her support.[7] In determining dependency under FECA, the decisive test is whether the person for whom benefits are claimed as a dependent of the employee, in fact, looked to and relied, in whole or in part, upon the contributions given by the employee as a means of maintaining or helping to maintain a customary standard of living.[8]

If a claimant received compensation at the augmented rate during a period when he or she did not have an eligible dependent, the difference between the compensation that was disbursed at

[4] The Board notes that appellant's net wage-loss compensation payment at the time was $4,914.74.

[5] 5 U.S.C. § 8102(a).

[6] *C.P.,* Docket No. 22-1248 (issued June 14, 2024); *E.B.,* Docket No. 19-1571 (issued December 31, 2020); *R.G.,* Docket No. 18-1251 (issued November 26, 2019); *O.R.,* 59 ECAB 432 (2008); *id.* at §§ 8105(a) and 8110(b).

[7] 5 U.S.C. § 8110(a)(2).

[8] *See N.J.,* Docket No. 18-0556 (issued December 6, 2018); *Nancy J. Masterson,* 52 ECAB 507 (2001); *Helyn E. Girmann,* 11 ECAB 557 (1960).

the 75 percent augmented rate and the compensation that should have been disbursed at the 66 2/3 percent basic rate constitutes an overpayment of compensation.[9]

ANALYSIS -- ISSUE 1

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of $6,568.80 for the period April 20, 2025 through January 24, 2026, for which he was without fault, because he received wage-loss compensation at the augmented rate, to which he was not entitled.

The evidence of record reflects that on the Form CA-2a dated December 18, 2024, appellant listed a spouse as a dependent. On subsequent CA-7 forms dated May 3, 2025 through July 12, 2025, and on a November 26, 2025 Form EN-1032, he did not list any dependents. As OWCP paid appellant at the augmented rate for the period April 20, 2025 through January 24, 2026, fact of overpayment is established.

Compensation records confirm that OWCP paid appellant wage-loss compensation at the augmented rate from April 20, 2025 through January 24, 2026 in the net amount of $54,719.73. However, he was only entitled to receive $48,150.93 in net wage-loss compensation at the basic rate, resulting in an overpayment in the amount of $6,568.80. Accordingly, the Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of $6,568.80 for the period April 20, 2025 through January 24, 2026, for which he was without fault.

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.[10] 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.[11]

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.[12] 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

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[9] *R.G.*, *supra* note 6; *Ralph P. Beachum, Sr.,* 55 ECAB 442 (2004).

[10] 5 U.S.C. § 8129(a)-(b).

[11] *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).

[12] 20 C.F.R. § 10.436(a)(b).

$50.00.[13] 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.[14] An individual's liquid assets include, but are not limited to cash, the value of stocks, bonds, saving accounts, mutual funds, and certificate of deposits.[15] Nonliquid 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.[16]

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.[17] 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.[18]

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.[19]

On his February 10, 2026 Form OWCP-20, appellant reported total assets of $194,000.00. As explained above, in determining whether recovery of the overpayment would defeat the purpose of FECA, OWCP considers whether assets exceed a resource base of $6,200.00 for an individual or $10,300.00 for an individual with a spouse or dependent.[20] As appellant's assets totaling $194,000.00 exceed the allowable resource base for an individual with no spouse or

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

[14] *Id*. at Chapter 6.400.4a(2).

[15] *Id*. at Chapter 6.400.4b(3).

[16] *Id*. at Chapter 6.400.4b(3)(a), (b).

[17] 20 C.F.R. § 10.437; *see E.H.*, Docket No. 18-1009 (issued January 29, 2019).

[18] *Supra* note 13 at Chapter 6.400.4c(3).

[19] *Supra* note 10.

[20] *Supra* note 13 at Chapter 6.400.4a(2). *See also S.W.*, Docket No. 20-0363 (issued November 23, 2020); *H.F.*, Docket No. 17-0101 (issued September 5, 2017).

dependents, recovery of the overpayment would not defeat the purpose of FECA. Because appellant has not established that recovery of the overpayment would defeat the purpose of FECA, it is not necessary for OWCP to consider whether he needs substantially all of his current income to meet ordinary and necessary living expenses.[21]

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.[22] Appellant has not shown, for the reasons noted above, that he would experience severe financial hardship in attempting to repay the debt, or that he has relinquished a valuable right, or changed his position for the worse in reliance on the payments which created the overpayment.[23]

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.[24]

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.[25]

Section 10.441 of OWCP's regulations[26] 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.[27]

ANALYSIS -- ISSUE 3

The Board finds that OWCP properly required recovery of the overpayment by deducting $180.00 from appellant's continuing compensation payments, every 28 days.

In determining whether appellant could repay the overpayment by deducting from his continuing compensation payments, 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

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

[22] *See J.D.,* Docket No. 94-2567 (issued October 17, 1996).

[23] *See B.C.,* Docket No. 19-0629 (issued June 2, 2020); *William J. Murphy*, 41 ECAB 569, 571-72 (1989).

[24] *J.R.*, Docket No. 24-0852 (issued November 14, 2024); *S.W.*, *supra* note 20.

[25] 20 C.F.R. § 10.441; *see M.P.,* Docket No. 18-0902 (issued October 16, 2018).

[26] *Id.* at § 10.441(a).

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

necessarily eliminate it, while at the same time liquidating the debt in a reasonably prompt fashion.[28] Thus, the Board finds that OWCP properly required recovery of the overpayment by deducting $180.00 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 $6,568.80 for the period April 20, 2025 through January 24, 2026, for which he was without fault, because he improperly received wage-loss compensation at an augmented rate, to which he was not entitled. The Board further finds that OWCP properly denied waiver of recovery of the overpayment and properly required recovery of the overpayment by deducting $180.00 from his continuing compensation payments, every 28 days.

ORDER

IT IS HEREBY ORDERED THAT the March 17, 2026 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 2, 2026
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board

[28] *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).