United States Department of Labor
Employees' Compensation Appeals Board

O.S., Appellant **and** **U.S. POSTAL SERVICE, CAROL STREAM PROCESSING & DISTRIBUTION CENTER, Carol Stream, IL, Employer**	)))))))))	**Docket No. 26-0418** **Issued: July 20, 2026**

Appearances:
Alan J. Shapiro, Esq., for the appellant[1]
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 April 3, 2026 appellant, through counsel, filed a timely appeal from a March 13, 2026 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the

[1] 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.

Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[3]

ISSUES

The issues are: (1) whether OWCP properly determined that appellant received an overpayment of compensation in the amount of $11,261.98 for the period May 1, 2024 through January 25, 2025, for which she was without fault, because she concurrently received FECA wage-loss compensation and Social Security Administration (SSA) age-related retirement 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 $215.74 from appellant's continuing compensation payments, every 28 days.

FACTUAL HISTORY

On December 11, 2004 appellant, then a 47-year-old mail processor/clerk, filed an occupational disease claim (Form CA-2) alleging that she developed neck and right shoulder conditions due to factors of her federal employment, including repetitive reaching and throwing mail.[4] OWCP accepted the claim for bilateral carpal tunnel syndrome, cervical disc displacement, aggravation of left shoulder osteoarthritis, and sprains of the neck, back, and right rotator cuff. It paid appellant wage-loss compensation on the periodic rolls effective April 5, 2015.

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

On January 21, 2025 OWCP requested information from SSA regarding potential dual benefits.

OWCP thereafter received a completed dual benefits form from SSA dated January 22, 2025. SSA reported that appellant received SSA age-related retirement benefits as of May 2024 and provided appellant's SSA age-related retirement benefit rates, with and without federal service. Beginning May 2024, appellant's SSA rate with federal service was $2,016.10 and without federal service was $757.40. Beginning December 2024, appellant's SSA rate with federal service was $2,066.50 and without federal service was $776.30.

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[2] 5 U.S.C. § 8101 *et seq*.

[3] The Board notes that, following the March 13, 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*.

[4] OWCP assigned the present claim OWCP File No. xxxxxx858. Appellant previously filed a Form CA-2 for a repetitive use injury, which OWCP accepted for right trapezius strain under OWCP File No. xxxxxx740. OWCP has not administratively combined appellant's claims.

On February 10, 2025 OWCP notified appellant that her wage-loss compensation payments would be adjusted to reflect an offset of $1,190.95 per 28-day pay period for her SSA age-related retirement benefits attributable to her federal service. Beginning February 22, 2025, it accordingly adjusted her wage-loss compensation to $2,673.65, every 28 days.

In an April 8, 2025 preliminary overpayment determination, OWCP notified appellant that she had received an overpayment of compensation in the amount of $11,261.98 for the period May 1, 2024 through January 25, 2025 because she concurrently received FECA wage-loss compensation and SSA age-related retirement benefits, without an appropriate offset. It provided an overpayment calculation worksheet, which indicated that OWCP used the information provided by SSA on January 22, 2025 to calculate the 28-day offset for the relevant periods. OWCP determined that, for the period May 1 through November 30, 2024, appellant received an overpayment in the amount of $8,880.08, and for the period December 1, 2024 through January 25, 2025, she received an overpayment in the amount of $2,381.90, resulting in a total overpayment amount of $11,261.98. It further advised her 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, OWCP notified appellant that she could request a final decision based on the written evidence or a prerecoupment hearing within 30 days.

On April 21, 2025 appellant requested a prerecoupment hearing and waiver of recovery of the overpayment. She submitted a partially completed Form OWCP-20, wherein she reported total monthly expenses of $4,708.65. With her April 21, 2025 Form OWCP-20, appellant submitted some supporting financial documentation.

In a letter dated August 19, 2025, OWCP again requested that appellant submit a completed Form OWCP-20 with supporting financial documentation.

Appellant submitted a completed Form OWCP-20, dated September 2, 2025, wherein she reported total monthly income of $5,376.07, total monthly expenses of $5,200.00, and no assets.

A prerecoupment hearing was held on December 23, 2025, during which appellant's counsel asserted that appellant had total monthly expenses of $5,419.00.

On January 9, 2026 appellant submitted some additional financial documentation.

By decision dated March 13, 2026, OWCP's hearing representative finalized the preliminary overpayment determination, finding that appellant received an overpayment of compensation in the amount of $11,261.98 for the period May 1, 2024 through January 25, 2025 because she concurrently received SSA age-related retirement benefits and FECA wage-loss compensation benefits, without an appropriate offset. The hearing representative further found that she was without fault in the creation of the overpayment, but denied waiver of recovery because her monthly income exceeded her monthly expenses by more than $50.00, noting that the financial information submitted by appellant demonstrated that she had $5,342.04 in monthly income and $5,108.32 in monthly expenses. The hearing representative required recovery of the overpayment by deducting $215.74 from appellant's continuing compensation payments, every 28 days.[5]

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.[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(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.[8] 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.[9]

ANALYSIS -- ISSUE 1

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of $11,261.98 for the period May 1, 2024 through January 25, 2025, 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 evidence of record establishes that appellant received both FECA wage-loss compensation and SSA age-related retirement benefits for the period May 1, 2024 through January 25, 2025. No appropriate offset was made. 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.[10] Thus, the record establishes that appellant received an overpayment of FECA wage-loss compensation for that period.

With regard to the amount of the overpayment, SSA reported appellant's age-related retirement benefit rates with and without federal service for the period May 1, 2024 through January 25, 2025. OWCP provided its overpayment calculations based on the information

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[5] The record reflects that, as of March 13, 2026, appellant's net wage-loss compensation was $2,752.04, per 28-day pay period. The March 13, 2026 hearing representative's decision required recovery of the overpayment at a rate of $233.72 per month; however, this equates to $215.74 per 28-day period.

[6] 5 U.S.C. § 8102(a).

[7] *Id*. at § 8116.

[8] 20 C.F.R. § 10.421(d); *see S.M.*, Docket No. 17-1802 (issued August 20, 2018); *L.J.*, 59 ECAB 264 (2007).

[9] FECA Bulletin No. 97-09 (issued February 3, 1997); *see also N.B.*, Docket No. 18-0795 (issued January 4, 2019).

[10] *Id*.

provided by SSA and determined that she received an overpayment in the amount of $11,261.98. The Board has reviewed OWCP's calculations and finds that appellant received an overpayment of compensation in the amount of $11,261.98.

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.[11] 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.[12]

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.[13] 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 $50.00.[14] 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.[15] 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.[16] 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.[17]

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

[11] 5 U.S.C. § 8129(a)-(b).

[12] *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).

[13] 20 C.F.R. § 10.436(a)(b).

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

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

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

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

made, gives up a valuable right or changes his or her position for the worse.[18] 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.[19]

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, and repayment is still required unless adjustment or recovery of the overpayment would defeat the purpose of FECA or would be against equity and good conscience.[20] In order to establish that recovery of the overpayment would defeat the purpose of FECA, appellant must show that she requires substantially all of her income to meet current ordinary and necessary living expenses, and that her assets do not exceed the established limit as determined by OWCP procedures.[21]

On April 21, 2025 appellant submitted a partially completed Form OWCP-20, wherein she reported total monthly expenses of $4,708.65. In a completed Form OWCP-20, dated September 2, 2025, appellant reported total monthly income of $5,376.07, total monthly expenses of $5,200.00, and no assets. During the prerecoupment hearing, held on December 23, 2025, counsel asserted that appellant had total monthly expenses of $5,419.00. Although appellant provided some supporting financial documentation, it is insufficient to support her reported expenses. As a result, OWCP did not have the necessary 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.[22]

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.[23]

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

[19] *Supra* note 14 at Chapter 6.400.4c(3).

[20] *Supra* note 11.

[21] *Supra* notes 13-15.

[22] *See C.T.,* 25-0666 (issued June 3, 2026); *P.D.,* Docket No. 24-0923 (issued October 15, 2024); *D.P.,* Docket No. 21-0187 (issued August 12, 2024); *B.G.,* Docket No. 20-0541 (issued April 28, 2021); *G.G.,* Docket No. 19-0684 (issued December 23, 2019).

[23] *Id*.

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.[24]

Section 10.441 of OWCP's regulations[25] 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.[26]

ANALYSIS -- ISSUE 3

The Board finds that OWCP properly required recovery of the overpayment by deducting $215.74 from appellant's continuing compensation payments, every 28 days.

In determining whether appellant could repay the overpayment by deducting from her 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 necessarily eliminate it, while at the same time liquidating the debt in a reasonably prompt fashion.[27] Thus, the Board finds that OWCP properly required recovery of the overpayment by deducting $215.74 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 $11,261.98 for the period May 1, 2024 through January 25, 2025, 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 of compensation and properly required recovery of the overpayment by deducting $215.74 from appellant's continuing compensation payments, every 28 days.

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[24] 20 C.F.R. § 10.441; *see M.P.,* Docket No. 18-0902 (issued October 16, 2018).

[25] *Id.* at § 10.441(a).

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

[27] *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).

ORDER

IT IS HEREBY ORDERED THAT the March 13, 2026 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 20, 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