United States Department of Labor
Employees' Compensation Appeals Board

C.S., Appellant	)	
and	)	**Docket No. 26-0424**
	)	**Issued: July 21, 2026**
U.S. POSTAL SERVICE, DOWNTOWN WACO POST OFFICE, Waco, TX, 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
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge

JURISDICTION

On April 7, 2026 appellant filed a timely appeal from a March 4, 2026 merit decision of the Office of Workers' Compensation Programs (OWCP).[1] Pursuant to the 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]

[1] Appellant submitted a timely request for oral argument before the Board. 20 C.F.R. § 501.5(b). Appellant asserted that oral argument should be granted because it would allow him to argue he was without fault in creating an overpayment of compensation and would have financial hardship in repaying the overpayment. Pursuant to the Board's *Rules of Procedure*, oral argument may be held in the discretion of the Board. 20 C.F.R. § 501.5(a). The Board, in exercising its discretion, denies appellant's request for oral argument because the arguments on appeal can be adequately addressed in a decision based on a review of the case record. Oral argument in this appeal would not serve a useful purpose. Therefore, the oral argument request is denied and this decision is based on the case record as submitted to the Board.

[2] 5 U.S.C. § 8101 *et seq.*

[3] The Board notes that, following the March 4, 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.*

ISSUES

The issues are: (1) whether appellant received an overpayment of compensation in the amount of $16,266.54 for the period November 25, 2024 through March 22, 2025, as he continued to receive FECA wage-loss compensation for total disability following his return to work; (2) whether OWCP properly denied waiver of recovery of the overpayment for the period November 25 through December 28, 2024; and (3) whether OWCP properly found appellant at fault in the creation of the overpayment for the period December 29, 2024 through March 22, 2025, thereby precluding waiver of recovery of the overpayment.

FACTUAL HISTORY

On September 10, 2019 appellant, then a 46-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that he sustained upper extremity injuries due to factors of his federal employment including casing, carrying, and delivering mail for 24 years. He noted that he first became aware of his conditions and realized their relationship to his federal employment on September 10, 2019. Appellant stopped work on October 19, 2019. OWCP assigned the claim OWCP File No. xxxxxx656 and, on November 26, 2019, accepted it for adhesive capsulitis of the shoulders, bursitis of the left shoulder, osteophyte of the left shoulder, bilateral forearm strains, right ulnar nerve lesion, strain of the right biceps, bilateral synovitis/tenosynovitis of the forearms, bilateral wrist sprains, and bilateral carpal tunnel syndrome.[4]

On November 26, 2019 OWCP advised appellant that he was to notify it immediately once he returned to work or obtained new employment. If he received a compensation check which included payment for a period he had worked, he was to return it to OWCP immediately to prevent an overpayment of compensation. OWCP advised appellant that if he received compensation via Electronic Funds Transfer (EFT), he was expected to monitor his EFT deposits carefully, at least every two weeks. If he had worked for any portion of the period for which a deposit was made, he was to advise OWCP immediately so that the overpayment could be collected. On January 24, 2020, OWCP paid appellant, via electronic funds transfer (EFT), wage-loss compensation for disability from work on the supplemental rolls for the period October 19, 2019 through January 4, 2020. Beginning February 1, 2020, it paid appellant wage-loss compensation for disability from work on the periodic rolls commencing January 5, 2020.

[4] Under OWCP File No. xxxxxx044, OWCP accepted sprain of ligaments of the cervical spine; sprain of ligaments of the lumbar spine; contusion of left front wall of the thorax; contusion of the right front wall of the thorax; contusion of the abdominal wall; contusion of the left eyelid and periocular area; intervertebral disc disorders with radiculopathy, lumbosacral region; and post-laminectomy syndrome. It administratively combined OWCP File Nos. and xxxxxx656, with the latter serving as the master file.

On November 25, 2024, appellant returned to full duty. However, he continued to receive FECA wage-loss compensation through March 22, 2025.[5]

On March 31, 2025 OWCP preliminarily determined that appellant received an overpayment of compensation in the amount of $16,266.54 for the period November 25, 2024 through March 22, 2025, as he continued to receive FECA wage-loss compensation for total disability following his return to work. It preliminarily determined that he was without fault in the creation of the overpayment for the periods November 25 through December 28, 2024 and February 23 through March 22, 2025, but at fault in the creation of the overpayment for the period December 29, 2024 through February 22, 2025. OWCP provided a detailed calculation of the amount of the overpayment. It requested that appellant submit a completed overpayment recovery questionnaire (Form OWCP-20) to determine a reasonable payment method and advised her that he could request waiver of recovery of the overpayment. It further requested that he provide supporting financial documentation including copies of income tax returns, bank account statements, bills, canceled checks, pay slips, and any other records that support income and expenses. Additionally, OWCP provided an overpayment action request form and notified appellant 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 April 28, 2025 appellant requested waiver of recovery of the overpayment and a prerecoupment hearing. On a completed Form OWCP-20, signed on April 23, 2025, he reported total monthly income of $6,100.00, total monthly expenses of $4,049.00, and total assets of $9,163.00. A prerecoupment hearing was held on December 16, 2025. During the hearing, appellant asserted that he had contacted OWCP regarding the EFT payments he received after his return to work, but he did not receive a response. He acknowledged that he did not return the payments. OWCP's hearing representative afforded appellant 30 days to submit additional financial information. No response was received.

By decision dated March 4, 2026, the hearing representative finalized OWCP's preliminary overpayment determination, finding that appellant received an overpayment of compensation in the amount of $16,266.54 for the period November 25, 2024 through March 22, 2025, as he continued to receive FECA wage-loss compensation for total disability following his return to work. She modified OWCP's preliminary determination to find that he was without fault in the creation of the overpayment for the periods November 25 through December 28, 2024, but at fault in the creation of the overpayment for the period December 29, 2024 through

[5] On November 30, 2024, OWCP paid appellant $3,860.10 for the period November 3 through 30, 2024. On December 28, 2024 it paid appellant $3,860.10 for the period December 1 through 28, 2024. On January 25, 2025 OWCP paid appellant $3,826.84 for the period December 29, 2024 through January 25, 2025. On February 22, 2025 it paid appellant $3,826.72 for the period January 26 through February 22, 2025. On March 22, 2025 OWCP paid appellant $3,925.72 for the period February 23 through March 22, 2025. Appellant received a total of $16,266.54 in FECA wage-loss compensation for the period November 25, 2024 through March 22, 2025.

March 22, 2025. The hearing representative denied waiver of recovery of the overpayment. She required recovery of the overpayment in full, payable by voluntary monthly payments of $460.00.[6]

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 duty.[7] Section 8129(a) of FECA provides, in pertinent part, that when an overpayment has been made to an individual under this subchapter 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 an individual is entitled.[8]

Section 8116(a) of FECA provides that, while an employee is receiving compensation or if he or she has been paid a lump sum in commutation of installment payments until the expiration of the period during which the installment payments would have continued, the employee may not receive salary, pay, or remuneration of any type from the United States, except in limited specified instances.[9] Section 10.500 of OWCP's regulations provides that compensation for wage loss due to disability is available only for periods during which an employee's work-related medical condition prevents him or her from earning the wages earned before the work-related injury.[10] A claimant is not entitled to receive temporary total disability (TTD) benefits and actual earnings for the same time period.[11] OWCP's procedures provide that an overpayment of compensation is created when a claimant returns to work, but continues to receive wage-loss compensation for TTD.[12]

ANALYSIS -- ISSUE 1

The Board finds that appellant received an overpayment of compensation in the amount of $16,266.54 for the period November 25, 2024 through March 22, 2025.

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[6] With respect to the recovery of an overpayment, the Board's jurisdiction is limited to those cases where OWCP seeks recovery from continuing compensation benefits. *A.G.*, Docket No. 26-0246 (issued April 20, 2026); *A.B.*, Docket No. 18-0915 (issued October 24, 2018); *Miguel A. Muniz*, 54 ECAB 217 (2002). As appellant was not in receipt of continuing compensation at the time of OWCP's overpayment determination, the Board does not have jurisdiction over the method of recovery of the overpayment in this case. *See J.G.,* Docket No. 24-0786 (issued February 17, 2026); *Lorenzo Rodriguez*, 51 ECAB 295 (2000); 20 C.F.R. § 10.441.

[7] 5 U.S.C. § 8102(a).

[8] *Id.* at § 8129(a).

[9] *Id*. at § 8116(a).

[10] 20 C.F.R. § 10.500(a).

[11] *See S.S.*, Docket No. 20-0776 (issued March 15, 2021); *L.T.*, Docket No. 19-1389 (issued March 27, 2020); *K.P.*, Docket No. 19-1151 (issued March 18, 2020); *C.H.*, Docket No. 19-1470 (issued January 24, 2020); *L.S.*, 59 ECAB 350, 352-53 (2008).

[12] Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Identifying and Calculating an Overpayment*, Chapter 6.200.1(a) (September 2018); *see also S.S., id.*; *L.T., id.*; *K.P., id.*; *C.H., id*.

The case record establishes that appellant returned to work on November 25, 2024. OWCP, however, continued to pay him wage-loss compensation for total disability through March 22, 2025. As explained above, a claimant is not entitled to receive TTD benefits and actual earnings for the same period.[13] Therefore, an overpayment of compensation was created in this case.[14]

OWCP calculated appellant's net compensation paid for the period November 25, 2024 through March 22, 2025 as $16,266.54. The Board has reviewed OWCP's calculations and finds that it properly calculated that appellant received an overpayment of compensation in that amount.

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.[15] 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.[16]

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, also, if the 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

[13] *Supra* note 11.

[14] *Supra* note 12.

[15] 5 U.S.C. § 8129(a)-(b).

[16] *See D.B.*, Docket No. 21-0009 (issued June 7, 2021); *R.Q.*, Docket No. 18-0964 (issued October 8, 2019); *S.J.*, Docket No. 09-370 (issued August 18, 2009).

[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).

determine the repayment schedule, if necessary.[19] Failure to submit the requested information within 30 days of the request will 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 for the periods November 25 through December 28, 2024.

As OWCP found appellant without fault in the creation of the overpayment for the periods November 25 through December 28, 2024, waiver must be considered, and recovery is still required for these periods of the overpayment unless adjustment of recovery of the overpayment would defeat the purpose of FECA or be against equity and good conscience.[21]

On his completed Form OWCP-20, signed on April 23, 2025, appellant reported total monthly income of $6,100.00, total monthly expenses of $4,049.00, and total assets of $9,163.00. As appellant's monthly income exceeds his monthly expenses by more than $50.00, the Board finds that OWCP properly found that recovery of the overpayment would not defeat the purpose of FECA.[22]

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

The Board thus finds that OWCP properly denied waiver of recovery of the overpayment for the periods November 25 through December 28, 2024.

LEGAL PRECEDENT -- ISSUE 3

Section 8129 of FECA provides that adjustment or recovery by the United States may not be made when incorrect payment has been made to an individual who is without fault and when adjustment or recovery would defeat the purpose of FECA or would be against equity and good conscience. A claimant who is at fault in the creation of the overpayment is precluded from waiver of recovery of the overpayment.[24]

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[19] *Id*. at § 10.438(a).

[20] *Id.* at § 10.438(b).

[21] *Id*. at § 10.436.

[22] *Supra* note 17; *see also A.F.,* Docket No. 25-0192 (issued February 4, 2025).

[23] *See L.D.,* Docket No. 18-1317 (issued April 17, 2019); *William J. Murphy*, 41 ECAB 569, 571-72 (1989).

[24] *J.S*., Docket No. 19-1363 (issued April 10, 2020); *B.R*., Docket No. 18-0339 (issued January 24, 2019); *K.E.,* Docket No. 18-0687 (issued October 25, 2018); *Gregg B. Manston*, 45 ECAB 344, 354 (1994); *Robert W. O'Brien*, 36 ECAB 541, 547 (1985).

Section 10.433(a) of OWCP's regulations provides that an individual is found at fault in the creation of an overpayment if he or she has: (1) made an incorrect statement as to a material fact which he or she knew or should have known to be incorrect; (2) failed to furnish information which he or she knew or should have known to be material; or (3) accepted a payment which he or she knew or should have known was incorrect.[25]

Even if an overpayment resulted from negligence by OWCP, this does not excuse the employee from accepting payment, which the employee knew or should have been expected to know he or she was not entitled.[26] The Board has held that an employee who receives payments from OWCP in the form of a direct deposit may not be at fault the first or second time that incorrect funds are deposited into his or her account, as he or she lacks the requisite knowledge in accepting payment.[27]

ANALYSIS -- ISSUE 3

The Board finds that OWCP properly found appellant at fault in the creation of the overpayment for the period December 29, 2024 through March 22, 2025, thereby precluding waiver of recovery of the overpayment.

As explained above, section 10.433(a) of OWCP's regulations provides that an individual is found at fault in the creation of an overpayment if he or she has accepted a payment which he or she knew or should have known was incorrect.[28] Even if an overpayment resulted from negligence by OWCP, this does not excuse the employee from accepting payment, which the employee knew or should have been expected to know he or she was not entitled.[29] After his receipt of the first and second wage-loss compensation payments following his return to work, appellant knew or reasonably should have known that OWCP had begun to make payments to him in error, and that he was no longer entitled to compensation payments.[30] By the time the third direct deposit payment was received following appellant's return to work, he should have known that he was not entitled to the same amount of wage-loss compensation as the amount received prior to returning to work.[31] The Board, therefore, finds that OWCP properly found appellant at fault in the creation of the overpayment for the period December 29, 2024 through March 22, 2025, thereby precluding waiver of recovery of the overpayment for that period.

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[25] 20 C.F.R. § 10.433(a).

[26] *E.L.,* Docket No. 25-0833 (issued January 9, 2026); *Diana L. Booth*, 52 ECAB 370 (2001).

[27] *See C.B.*, Docket No. 23-0769 (issued May 28, 2024); *R.S.*, Docket No. 20-0177 (issued September 3, 2021); *L.G.,* Docket No. 20-1342 (issued September 3, 2021); *M.J.*, Docket No. 19-1665 (issued July 29, 2020); *Tammy Craven*, 57 ECAB 689 (2006).

[28] *Supra* note 25.

[29] *Supra* note 26.

[30] *See A.H.,* Docket No. 26-0202 (issued April 6, 2026); *C.S.*, Docket No. 25-0562 (issued July 29, 2025); *M.R.*, Docket No. 24-0200 (issued March 28, 2024); *J.B.*, Docket No. 22-1027 (issued November 16, 2023).

[31] *See A.H.*, *id.*; *S.R.*, Docket No. 24-0338 (issued May 10, 2024).

CONCLUSION

The Board finds that appellant received an overpayment of compensation in the amount of $16,266.54 for the period November 25, 2024 through March 22, 2025, as he continued to receive FECA wage-loss compensation for total disability following his return to work. The Board further finds that OWCP properly denied waiver of recovery of the overpayment for the periods November 25 through December 28, 2024. The Board also finds that OWCP properly found appellant at fault in the creation of the overpayment for the period December 29, 2024 through March 22, 2025, thereby precluding waiver of recovery of the overpayment.

ORDER

IT IS HEREBY ORDERED THAT the March 4, 2026 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 21, 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