United States Department of Labor
Employees' Compensation Appeals Board

P.W., Appellant	)	
	)	**Docket No. 26-0468**
and	)	**Issued: July 28, 2026**
	)	
U.S. POSTAL SERVICE, CINCINNATI BULK MAIL CENTER, Sharonville, OH, Employer	)	

Appearances:
Alan J. Shapiro, Esq., for the appellant[1]
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 28, 2026 appellant, through counsel, filed a timely appeal from an April 13, 2026 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of this case.

ISSUES

The issues are: (1) whether appellant received an overpayment of compensation in the amount of $27,855.19 during the period September 1, 2023 through September 6, 2025, for

[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.

[2] 5 U.S.C. § 8101 *et seq.*

which he was without fault, because he 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 $185.00 from appellant's continuing compensation payments, every 28 days.

FACTUAL HISTORY

On April 28, 2005 appellant, then a 48-year-old clerk keyer, filed a traumatic injury claim (Form CA-1) alleging that on that day he sustained a right shoulder injury when he used both arms to push a heavy parcel while in the performance of duty.[3] Appellant's supervisor noted on the reverse side of the claim form that appellant's retirement was under the Federal Employees' Retirement System (FERS). OWCP initially accepted the claim for right shoulder sprain. It subsequently expanded acceptance of the claim to include right rotator cuff tear. OWCP paid appellant wage-loss compensation on the supplemental and periodic rolls.

On August 11, 2025 OWCP provided SSA with a FERS/SSA dual benefits form.

On August 22, 2025 SSA completed the dual benefits form, reporting appellant's SSA age-related retirement benefit rates with and without a federal service from September 2023 through December 2024. Beginning September 2023, the SSA rate with federal service was $2,275.70 and without federal service was $1,171.10; beginning December 2023, the SSA rate with federal service was $2,348.50 and without federal service was $1,208.50; and beginning December 2024, the SSA rate with federal service was $2,407.20 and without federal service was $1,238.70.

On September 26, 2025 OWCP adjusted appellant's wage-loss compensation payments to reflect an offset of $1,078.62 per 28-day pay period for his SSA age-related retirement benefits attributable to his federal service. It accordingly adjusted appellant's net wage-loss compensation to $647.54 per 28-day pay period.

On November 14, 2025 OWCP prepared a FERS offset overpayment calculation worksheet, wherein it detailed the calculation of appellant's SSA offset overpayment from September 1, 2023 through September 6, 2025. The calculation resulted in a total overpayment amount of $27,853.99.

In a preliminary overpayment determination dated November 14, 2025, OWCP notified appellant that he had received an overpayment of compensation in the amount of $27,853.99 because he concurrently received SSA age-related retirement benefits and FECA wage-loss compensation without an appropriate offset. OWCP further advised him of its preliminary overpayment determination that he was without fault in the creation of the overpayment. It requested that he complete an overpayment action request form and an overpayment recovery

[3] OWCP assigned the present claim OWCP File No. xxxxxx528. Appellant has a subsequent occupational disease claim under OWCP File No. xxxxx426, which OWCP accepted for aggravation of sprain/strain of right rotator cuff. OWCP has administratively combined OWCP File Nos. xxxxxx426 and xxxxxx528, with the latter serving as the master file.

questionnaire (Form OWCP-20) and submit supporting financial documentation including tax returns, bank account statements, bills and cancelled checks, pay slips, and other records which supported income and expenses listed. Additionally, OWCP notified appellant that he could request a final decision based on the written evidence or a prerecoupment hearing within 30 days.

On November 26, 2025 appellant requested a prerecoupment hearing before a representative of OWCP's Branch of Hearings and Review. He contested the fact and amount of the overpayment and requested waiver of recovery.

A prerecoupment hearing was held on March 12, 2026, during which OWCP's hearing representative reiterated that appellant must submit a completed Form OWCP-20 and supporting documentation if he wished waiver of recovery of the overpayment or a repayment plan for the debt to be considered in establishing his financial hardship. The hearing representative left the record open for 30 days for the submission of evidence. No additional evidence was received.

By decision dated April 13, 2026, OWCP's hearing representative finalized the preliminary overpayment determination that appellant had received an overpayment of compensation for the period September 1, 2023 through September 6, 2025. However, he modified the total overpayment amount to $27,855.19 for the period September 1, 2023 through September 6, 2025. The hearing representative provided detailed calculations resulting in the revised overpayment amount. The hearing representative determined that appellant was without fault in the creation of the overpayment but denied waiver of recovery of the overpayment. He required recovery of the overpayment by deducting $185.00 from his continuing compensation payments, every 28 days.[4]

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.[5] However, section 8116 also 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.[6] When an overpayment has been made to an individual 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 the individual is entitled.[7]

Section 10.421(d) of OWCP's implementing regulations requires that it reduce the amount of compensation by the amount of any SSA benefits that are attributable to the

[4] The record establishes that OWCP paid appellant $657.48 in net compensation as of April 13, 2026.

[5] 5 U.S.C. § 8102(a).

[6] *Id.* at § 8116.

[7] *Id.* at § 8129(a).

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 appellant received an overpayment of compensation in the amount of $27,855.19 for the period September 1, 2023 through September 6, 2025, for which he was without fault, because he concurrently received FECA wage-loss compensation and SSA age-related retirement benefits, without an appropriate offset.

SSA provided a completed dual benefits form showing that appellant was in receipt of SSA age-related retirement benefits since September 2023. The case record, however, shows that appellant concurrently received FECA wage-loss compensation for that same period. No appropriate offset was made. As noted, a claimant cannot receive both compensation for wage loss under FECA and SSA age-related retirement benefits attributable to federal service for the same period.[10] Accordingly, the Board finds that fact of overpayment has been established.

To determine the amount of the overpayment, the portion of the SSA benefits that were attributable to federal service must be calculated. OWCP received documentation from SSA with respect to the specific amount of SSA age-related retirement benefits that were attributable to federal service. The SSA provided appellant's SSA rates with federal service and without federal service for the period September 1, 2023 through September 6, 2025. OWCP provided its calculations of the amount that it should have offset during the relevant period based on the SSA dual benefits form.

The Board has reviewed OWCP's calculation of SSA age-related retirement benefits received by appellant for the period September 1, 2023 through September 6, 2025 and finds that an overpayment of compensation in the amount of $27,855.19 was created.[11]

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.[12]

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[8] 20 C.F.R. § 10.421(d); *see B.W.,* Docket No. 21-0277 (issued May 6, 2022; *R.R.*, Docket No. 19-0104 (issued March 9, 2020); *T.B.*, Docket No. 18-1449 (issued March 19, 2019); *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.*

[11] *See M.M.,* Docket No. 23-0129 (issued May 19, 2023); *J.H.,* Docket No. 22-1375 (issued May 16, 2023); *P.M.,* Docket No. 21-0915 (issued December 14, 2021); *K.W.,* Docket No. 20-1169 (issued April 7, 2021); *W.C.*, Docket No. 20-1241 (issued February 9, 2021).

[12] 5 U.S.C. § 8129(a)-(b).

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.[13]

Recovery of an overpayment will defeat the purpose of FECA when 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.[14] 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.[15]

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.[16] 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.[17]

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 recovery is still required unless adjustment or recovery of the overpayment would defeat the purpose of FECA or be against equity and good conscience.[18]

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[13] *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).

[14] 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).

[15] *Id.* at § 10.437(a)-(b).

[16] *Id.* at § 10.438(a).

[17] *Id.* at § 10.438(b).

[18] 5 U.S.C. § 8129.

In its preliminary overpayment determination dated November 14, 2025, OWCP explained the importance of providing the completed overpayment recovery questionnaire and supporting financial documentation. It advised appellant that it would deny waiver of recovery if he failed to furnish the requested financial information within 30 days. Appellant, however, did not submit a completed Form OWCP-20 or other financial information necessary for OWCP to determine if recovery of the overpayment would defeat the purpose of FECA or if recovery would be against equity and good conscience. 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.[19]

Accordingly, the Board finds that OWCP properly denied waiver of recovery of the overpayment compensation.

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.[20]

Section 10.441 of OWCP's regulations[21] 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.[22]

ANALYSIS -- ISSUE 3

The Board finds that OWCP improperly required recovery of the overpayment by deducting $185.00 from appellant's continuing compensation payments, every 28 days.

OWCP's procedures provide that, in instances where the claimant fails to provide the requested financial information, 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.[23] In this case, appellant did not submit a completed Form OWCP-20, reporting his income, assets, and expenses with supporting financial documentation prior to OWCP's issuance of the April 13, 2026 final overpayment determination. However, OWCP required recovery at a rate higher than

[19] 20 C.F.R. § 10.438; *see L.P.,* Docket No. 26-0301 (issued May 29, 2026).

[20] *Id.* at § 10.441; *see L.P., id.*; *M.P.,* Docket No. 18-0902 (issued October 16, 2018).

[21] *Id.* at § 10.441(a).

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

[23] Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Debt Liquidation*, Chapter 6.500.8c(1) (September 2018).

25 percent. The record establishes that OWCP paid appellant $657.48 in net compensation as of April 13, 2026. Twenty-five percent of $657.48 is $164.37. The Board, therefore, finds that OWCP abused its discretion by deducting $185.00 from appellant's continuing compensation payments, every 28 days.[24]

CONCLUSION

The Board finds that appellant received an overpayment of compensation in the amount of $27,855.19 for the period September 1, 2023 through September 6, 2025, for which he was without fault, because he 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. The Board also finds that OWCP improperly required recovery of the overpayment by deducting $185.00 from appellant's continuing FECA compensation, every 28 days.

ORDER

IT IS HEREBY ORDERED THAT the April 13, 2026 decision of the Office of Workers' Compensation Programs is affirmed in part and reversed in part. The case is remanded for further proceedings consistent with this decision of the Board.

Issued: July 28, 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

[24] *J.R.*, Docket No. 24-0852 (issued November 14, 2024).