United States Department of Labor
Employees' Compensation Appeals Board

C.T., Appellant	)	
and	)	**Docket No. 25-0666**
	)	**Issued: June 3, 2026**
DEPARTMENT OF HOMELAND SECURITY, U.S. COAST GUARD ACADEMY, New London, CT, 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 June 10, 2025 appellant filed a timely appeal from a May 14, 2025 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.

ISSUES

The issues are: (1) whether OWCP properly determined that appellant received an overpayment of compensation in the amount of $27,099.40 for the period November 1, 2022 through November 2, 2024, for 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 $27,099.40 overpayment; and (3) whether OWCP properly required recovery of the overpayment by deducting $500.00 from appellant's continuing compensation payments, every 28 days.

[1] 5 U.S.C. § 8101 *et seq*.

FACTUAL HISTORY

This case has previously been before the Board on a different issue.[2] The facts and circumstances as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are set forth below.

On November 12, 1999 appellant, then a 43-year-old electrician leader, filed a traumatic injury claim (Form CA-1) alleging that on November 10, 1999 he injured his right wrist when he installed a power panel while in the performance of duty. OWCP accepted the claim for right wrist sprain and right wrist contusion. It subsequently expanded its acceptance of the claim to include other disorders of the synovium, tendon, bursa of the right wrist, and primary osteoarthritis of the right wrist. OWCP paid appellant wage-loss compensation on the supplemental and periodic rolls.

In an August 2, 2002 notification of personnel action (Standard Form (SF) 50), the employing establishment indicated that appellant's retirement coverage was under the Federal Employees Retirement System (FERS).

On October 1, 2024 OWCP provided SSA with a dual benefits form, requesting that it report appellant's SSA age-related retirement benefit rates with and without federal service for the period January 1, 2015 and continuing.

On October 3, 2024 SSA returned a completed dual benefits form reporting SSA age-related retirement benefit rates with and without federal service for the period November 1, 2022 through December 1, 2023. Beginning November 1, 2022, the SSA rate with federal service was $2,291.90, and without federal service was $1,271.90; beginning December 2022, the SSA rate with federal service was $2,491.20, and without federal service was $1,382.50; and beginning December 2023, the SSA rate with federal service was $2,570.90, and without federal service was $1,426.70.

In a letter dated November 7, 2024, OWCP advised appellant that, effective November 3, 2024, his FECA wage-loss compensation would be offset by his SSA age-related retirement benefits every 28 days, in the amount of $1,056.18. Appellant's new net wage-loss compensation payments every 28 days would be $3,063.82.

In a November 6, 2024 compensation adjustment sheet, OWCP determined that for the period November 1 through 30, 2022, appellant received an overpayment in the amount of $1,008.79; for the period December 1, 2022 through November 30, 2023, he received an overpayment in the amount of $13,341.01; and for the period December 1, 2023 through November 4, 2024, he received an overpayment in the amount of $12,749.60. It explained that this resulted in a total overpayment of $27,099.40.

On January 3, 2025 OWCP advised appellant of its preliminary overpayment determination that he had received an overpayment of compensation in the amount of $27,099.40 for the period November 1, 2022 through November 2, 2024 because he concurrently received FECA wage-loss compensation and SSA age-related retirement benefits, without an appropriate offset. It provided detailed calculations of the overpayment and further advised appellant of its

[2] Docket No. 06-1599 (issued March 12, 2007).

preliminary determination that he was without fault in the creation of the overpayment. OWCP requested that he complete an overpayment action request form and an overpayment recovery questionnaire (Form OWCP-20), and that he 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, it notified him that he could request a final decision based on the written evidence or a prerecoupment hearing within 30 days.

In an overpayment action request form postmarked January 18, 2025, appellant requested a prerecoupment hearing before a representative of OWCP's Branch of Hearings and Review. OWCP also received a partially completed Form OWCP-20 signed on January 14, 2025, wherein appellant reported total monthly income of $6,334.42, and total monthly expenses of $7,004.50, noting that he resided with his spouse. He only submitted some supporting financial documentation for his reported expenses.

A hearing was held on April 8, 2025.[3] During the hearing and in an April 14, 2025 letter, the hearing representative advised appellant to submit a completed Form OWCP-20, and additional supporting financial documentation.

OWCP subsequently received only some additional financial documentation.

By decision dated May 14, 2025, OWCP's hearing representative finalized the January 3, 2025 preliminary overpayment determination, finding that appellant received an overpayment of compensation in the amount of $27,099.40 for the period November 1, 2022 through November 2, 2024, because he concurrently received SSA age-related retirement benefits and FECA wage-loss compensation, without an appropriate offset. She further found that appellant was without fault in the creation of the overpayment but denied waiver of recovery of the overpayment. The hearing representative required recovery of the overpayment by deducting $500.00 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 of an employee resulting from personal injury sustained while in the performance of his or her federal employment.[5] 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.[6]

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[3] Appellant testified that the change in his SSA benefits had resulted in a $33,408.00 overpayment of SSA disability benefits, and that he therefore received no SSA benefits for the period February through September 2023. The case record, however, contains a January 17, 2022 SSA notice of change in benefits, which indicated that appellant's $33,408.00 overpayment would be collected by deducting $25.00 each month for 668 months beginning February 2022. Appellant's monthly benefit was $712.00.

[4] The record reflects that as of the date of the final overpayment determination, appellant received payments of $3,152,42. in net compensation, every 28 days.

[5] 5 U.S.C. § 8102(a).

[6] *Id.* at § 8116.

Section 10.421(d) of the implementing regulations requires that OWCP reduce the amount of compensation by the amount of any SSA age-related retirement benefits that are attributable to federal service of the employee.[7] FECA Bulletin No. 97-09 provides 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.[8]

ANALYSIS -- ISSUE 1

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of $27,099.40 for the period November 1, 2022 through November 2, 2024, 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 evidence of record establishes that appellant received wage-loss compensation under FECA and SSA age-related retirement benefits based on his federal service for the same period. However, no appropriate offset was made. A claimant cannot receive both compensation for wage loss and SSA age-related retirement benefits attributable to federal service for the same period.[9] Consequently, the fact of overpayment has been established.[10]

With regard to the amount of the overpayment, OWCP provided its detailed overpayment calculations for this period, based on the information provided by SSA. The Board has reviewed OWCP's calculations and finds that it properly determined that appellant received an overpayment of compensation for the period November 1, 2022 through November 2, 2024 in the amount of $27,099.40.

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]

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[7] 20 C.F.R. § 10.421(d).

[8] FECA Bulletin No. 97-09 (issued February 3, 1997).

[9] *L.D.*, Docket No. 26-0061 (issued February 27, 2026); *J.J.*, Docket No. 25-0778 (issued December 2, 2025); *E.M.*, Docket No. 21-1231 (issued April 19, 2023); *E.K.*, Docket No. 18-0587 (issued October 1, 2018).

[10] *L.D.*, *id.*; *J.J., id.*; *L.M.*, Docket No. 19-1197 (issued January 8, 2020).

[11] 5 U.S.C. § 8129(a)-(b).

[12] *J.J., supra* note 9; *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).

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]

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.

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 $27,099.40 overpayment.

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.[18]

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[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] 20 C.F.R. § 10.438(a); *P.D.*, Docket No. 24-0923 (issued October 15, 2024); *D.P.*, Docket No. 21-0187 (issued August 12, 2024); *P.N.*, Docket No. 20-1159 (issued April 20, 2021); *Ralph P. Beachum, Sr.*, 55 ECAB 442 (2004).

[17] *Id.* at 10.438(b).

[18] *A.C.*, Docket No. 18-1550 (issued February 21, 2019).

Appellant, however, had the responsibility to provide the appropriate financial information to OWCP.[19]

In its preliminary overpayment determination dated January 3, 2025, OWCP explained the importance of providing the completed Form OWCP-20 and supporting financial documentation to support income and expenses. Although appellant provided some supporting financial documentation, it is insufficient to support his 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.[20] The Board thus finds that OWCP properly denied waiver of recovery of the overpayment.[21]

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.[22]

Section 10.441 of OWCP's regulations provides 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 the error is discovered or his 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.[23]

ANALYSIS -- ISSUE 3

The Board finds that OWCP properly required recovery of the overpayment by deducting $500.00 from appellant's continuing compensation payments, every 28 days.

In determining whether appellant could repay the overpayment through $500.00 deductions from his continuing compensation payments, OWCP took into account his financial information as well as 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.[24] Thus, the Board finds that it properly

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[19] 20 C.F.R. § 10.438; *C.R.*, Docket No. 24-0400 (issued January 29, 2026); *P.D., supra* note 16; *D.P., supra* note 16; *B.G.*, Docket No. 20-0541 (issued April 28, 2021); *N.J.*, Docket No. 19-1170 (issued January 10, 2020).

[20] *P.D., supra* note 16; *D.P., supra* note 16; *B.G., id.*; *G.G.*, Docket No. 19-0684 (issued December 23, 2019).

[21] *Id*.

[22] 20 C.F.R. § 10.441; *see T.T.*, Docket No. 20-1257 (issued July 29, 2022); *M.P.*, Docket No. 18-0902 (issued October 16, 2018).

[23] *Id.* at § 10.441(a).

[24] *See T.L.,* Docket No. 25-0426 (issued May 14, 2025);*J.B.,* Docket No. 24-0876 (issued September 26, 2024); *L.F.,* Docket No. 15-0489 (issued May 11, 2015). *See also C.P.*, Docket No. 22-1248 (issued June 14, 2024); *M.S.*, Docket No. 20-0068 (issued May 14, 2021); *M.B.*, Docket No. 20-1578 (issued March 25, 2021).

required recovery of the overpayment by deducting $500.00 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 $27,099.40, for the period November 1, 2022 through November 2, 2024, 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 $27,099.40 overpayment and properly required recovery of the overpayment by deducting $500.00 from appellant's continuing compensation payments, every 28 days.

ORDER

IT IS HEREBY ORDERED THAT the May 14, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 3, 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