United States Department of Labor
Employees' Compensation Appeals Board

K.J., Appellant	)	
	)	
and	)	**Docket No. 26-0324**
	)	**Issued: June 15, 2026**
U.S. POSTAL SERVICE, RICHMOND MAIN POST OFFICE, Richmond, 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 February 23, 2026 appellant filed a timely appeal from a November 20, 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.[2]

ISSUES

The issues are: (1) whether appellant received an overpayment of compensation in the amount of $3,534.77 for the period March 22 through April 12, 2025, for which he was without

[1] 5 U.S.C. § 8101 *et seq*.

[2] The Board notes that following the November 20, 2025 decision, appellant submitted additional evidence to OWCP. 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.*

fault, as he received compensation to which he was not entitled; and (2) whether OWCP properly denied waiver of recovery of the overpayment.

FACTUAL HISTORY

On January 9, 2025 appellant, then a 53-year-old tractor trailer operator, filed a traumatic injury claim (Form CA-1) alleging that on December 28, 2024 he injured his left knee unloading an all-purpose container (APC) from a trailer while in the performance of duty. He stopped work on December 29, 2024, and returned to full-time modified duty with restrictions on January 2, 2025. OWCP accepted the claim for a left knee sprain.

On April 24, 2025 appellant filed a claim for compensation (Form CA-7) requesting leave buyback (LBB) for the period March 22 through April 4, 2025. He also claimed compensation for leave without pay (LWOP) for the period April 5 through 18, 2025. On the reverse side of the claim form the employing establishment indicated that appellant had used sick or annual leave from March 22 through April 12, 2015 and LWOP from April 15 through 18, 2025.

On May 4, 2025 appellant signed a certified LBB worksheet (Form CA-7b) wherein he elected FECA compensation to repurchase leave used for medical care or disability resulting from his on-the-job-related injury or condition.

On June 17, 2025 OWCP issued a check to appellant in the amount of $3,534.77 for the period March 22 through April 12, 2025 for 128 hours of wage loss due to disability.

In a June 20, 2025 letter, OWCP approved appellant's LBB request for 128 hours for the period March 22 to April 12, 2025. It noted the total amount due to the employing establishment to repurchase leave was $4,713.02; FECA entitlement due to the employing establishment was $3,534.77; and the balance due the employing establishment from appellant was $1,178.26.

In an overpayment referral memorandum, OWCP found that an overpayment for the period March 22 through April 12, 2025 had occurred as an LBB check was mistakenly sent to appellant, who had cashed the check. It stated the check was owed to the employing establishment, not appellant.

In a preliminary overpayment determination dated August 25, 2025, OWCP notified appellant of its preliminary finding that he had received an overpayment of compensation in the amount of $3,534.77 for the period March 22 through April 12, 2025, because it mistakenly paid LBB to him instead of the employing establishment. It noted that in its June 20, 2025 letter, that it had advised him that his application to "buy back" the leave he used had been approved for 128 hours for the period March 22 through April 12, 2025, noting that FECA entitlement due to the employing establishment was $3,534.77 and balance due to the employing establishment from him was $1,178.26. It found that as it had inadvertently issued the $3,534.77 payment to him instead of the employing establishment, he was overpaid $3,534.77 for the period March 22 through April 12, 2025, as he was not entitled to that payment. OWCP determined that appellant was without fault in the creation of the overpayment. It requested that he complete an overpayment recovery questionnaire (Form OWCP-20) and submit supporting financial documentation including copies of income tax returns, bank account statements, bills, cancelled checks, pay slips, and other records that support income and expenses. Additionally, OWCP provided an overpayment action request form and notified appellant that, within 30 days, he could request a final decision based on the written evidence, or a prerecoupment hearing.

On September 24, 2025 appellant requested that OWCP make a decision on the written evidence regarding possible waiver of the overpayment. In a partially completed September 24, 2025 Form OWCP-20, he listed total monthly income of $0.00 and total monthly expenses of $5,325.00. Appellant further indicated that he had cash, savings, and checking account balances totaling $1,686.00 plus an unknown amount from two retirement payments he had received. No supporting financial documentation was submitted.

By decision dated November 20, 2025, OWCP finalized the August 25, 2025 preliminary overpayment determination. It found that appellant had received an overpayment of compensation in the amount $3,534.77 for the period March 22 through April 12, 2025, for which he was without fault, because the LBB payment had inadvertently been issued to him instead of the employing establishment. OWCP denied waiver of recovery of the overpayment and required recovery in the full amount of $3,534.77.

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.[3] 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.[4]

OWCP's procedures explain that an overpayment is created if the claimant is determined not to be entitled to compensation already paid.[5]

ANALYSIS -- ISSUE 1

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of $3,534.77 for the period March 22 through April 12, 2025, for which he was without fault, as he received compensation to which he was not entitled.

In a preliminary overpayment determination dated August 25, 2025, OWCP notified appellant of its preliminary finding that he had received an overpayment of compensation, for the period March 22 through April 12, 2025, because he had received and negotiated a check for $3,534.77 for disability wage-loss compensation. OWCP explained that since appellant had used sick and annual leave during this time period and had an approved application for LBB, the check

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[3] 5 U.S.C. § 8102(a).

[4] *Id.* at § 8129(a).

[5] Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Identifying and Calculating an Overpayment*, Chapter 6.200.1 (September 2020).

should have been sent to the employing establishment. The Board has reviewed the evidence of record and finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of $3,534.77 for the period March 22 through April 12, 2025, as he received compensation to which he was not entitled. Appellant was not entitled to FECA wage-loss compensation for any period in which he also used sick or annual leave.[6] An overpayment of compensation has therefore been established.

As appellant inadvertently received and negotiated an LBB check from OWCP in the amount of $3,534.77 for the period March 22 through April 12, 2025, for which he was not entitled, the Board finds that appellant received an overpayment in the amount of $3,534.77.

LEGAL PRECEDENT -- ISSUE 2

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.[7] 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.[8]

Recovery of an overpayment will defeat the purpose of FECA if 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.[9] An individual is deemed to meet current ordinary and necessary living expenses if monthly income does not exceed monthly expenses by more than $50.00.[10]

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

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[6] *In the Matter of Vivian Berscak,* Docket No. 01-1058 (issued January 22, 2002).

[7] 5 U.S.C. § 8129(b).

[8] 20 C.F.R. § 10.436.

[9] *Id.* at § 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).

[10] *Id.* at Chapter 6.400.4.a(3); *see also B.M.,* Docket No. 23-0891 (issued January 30, 2024); *N.J.,* Docket No. 19-1170 (issued January 10, 2020); *M.A.,* Docket No. 18-1666 (issued April 26, 2019).

notice that such payments would be made, gives up a valuable right or changes his or her position for the worse.[11]

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.[12] 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. 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.[13]

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 of compensation in the amount of $3,534.77 for the period March 22 through April 12, 2025, waiver must be considered. Repayment is still required unless adjustment or recovery of the overpayment would defeat the purpose of FECA or be against equity and good conscience.[14]

In its preliminary overpayment determination dated August 25, 2025, OWCP explained the importance of providing the completed Form OWCP-20 and supporting financial documentation. While appellant submitted a partially completed Form OWCP-20, he did not, however, provide all of the requested financial information and supporting documentation prior to OWCP's issuance of the November 20, 2025 final overpayment determination. As he did not submit sufficient information as required under section 10.438 of OWCP's regulations, which was necessary to determine his eligibility for waiver, the Board finds that OWCP properly denied waiver of recovery of the overpayment.[15]

CONCLUSION

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of $3,534.77 for the period March 22 through April 12, 2025, for which he was without fault, as he received compensation to which he was not entitled. The Board further finds that OWCP properly denied waiver of recovery of the overpayment.

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[11] 20 C.F.R. § 10.437(a)-(b).

[12] *Id.* at 10.438(a).

[13] *Id.* at § 10.438(b).

[14] *Supra* note 8.

[15] *T.T.*, Docket No. 20-1257 (issued July 29, 2022); *D.C.*, Docket No. 19-0118 (issued January 15, 2020); *see S.B.,* Docket No. 16-1795 (issued March 2, 2017).

ORDER

IT IS HEREBY ORDERED THAT the November 20, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 15, 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