

**United States Department of Labor
Employees' Compensation Appeals Board**

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D.J., Appellant)	
)	
and)	
)	Docket No. 26-0147
)	Issued: March 6, 2026
U.S. POSTAL SERVICE, NORTH TEXAS)	
PROCESSING AND DISTRIBUTION CENTER,)	
Coppell, TX, Employer)	
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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 December 3, 2025 appellant filed a timely appeal from a November 13, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP).¹ Pursuant to the Federal

¹ Appellant submitted a timely request for oral argument before the Board. 20 C.F.R. § 501.5(b). 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). Appellant contended that OWCP did not properly exercise its discretion as she was found to without fault in the creation of the overpayment and, thus, waiver of recovery thereof should not have been denied. The Board, in exercising its discretion, denies appellant's request for oral argument because the arguments on appeal can adequately be 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.

Employees' Compensation Act² (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 \$15,343.25 for the period November 1, 2022 through November 2, 2024 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 \$804.00 per month from appellant's continuing compensation payments.

FACTUAL HISTORY

On August 5, 2019 appellant, then a 63-year-old clerk, filed an occupational disease claim (Form CA-2) alleging that she injured her knees and heels due to factors of her federal employment, including excessive walking, standing, light lifting, and scanning on concrete floors. She noted that she first became aware of her condition on April 10, 2019, and realized its relationship to her federal employment on August 5, 2019. Appellant initially stopped work on June 18, 2020 and returned to part-time modified-duty work on June 26, 2021. She again stopped work on March 9, 2022 and has not returned. OWCP accepted the claim for bilateral plantar fascial fibromatosis, bilateral knee ligament sprains, and left knee primary osteoarthritis. It paid appellant wage-loss compensation for partial and total disability from June 18, 2020 through March 8, 2022 and for total disability on the periodic rolls effective March 9, 2022.

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

On October 15, 2024 OWCP requested information from SSA regarding potential dual benefits.

OWCP thereafter received a completed dual benefits form from SSA dated October 24, 2024. The form indicated that appellant received SSA age-related retirement benefits as of November 2022 and provided appellant's SSA age-related retirement benefit rates with and without federal service. Beginning November 2022, the SSA rate with federal service was \$1,389.10 and without federal service was \$818.70. Beginning December 2022, the SSA rate with federal service was \$1,509.90 and without federal service was \$889.90. Beginning January 2023, the SSA rate with federal service was \$1,518.30 and without federal service was \$889.90.

² 5 U.S.C. § 8101 *et seq.*

³ The Board notes that following the November 13, 2025 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.*

Beginning December 2023, the SSA rate with federal service was \$1,566.80 and without federal service was \$918.30.

On November 29, 2024 OWCP notified appellant that her wage-loss compensation payments would be adjusted to reflect an offset of \$598.62 per 28-day pay period for her SSA age-related retirement benefits attributable to her federal service. Beginning November 30, 2024, it adjusted her net wage-loss compensation to \$3,163.66 per 28-day pay period.

In a January 15, 2025 preliminary overpayment determination, OWCP notified appellant that she had received an overpayment of compensation in the amount of \$15,343.25 for the period November 1, 2022 through November 2, 2024 because she concurrently received FECA wage-loss compensation and SSA age-related retirement benefits, without an appropriate offset. It provided an offset overpayment calculation, in which it used the information provided by SSA on October 24, 2024 to calculate the 28-day offset for the relevant periods. OWCP determined that during the period November 1 through 30, 2022, appellant received an overpayment in the amount of \$564.13; during the period December 1 through 31, 2022, she received an overpayment in the amount of \$633.63; during the period January 1 through November 30, 2023, she received an overpayment of \$6,919.29, and during the period December 1, 2023 through November 2, 2024, she received an overpayment in the amount of \$7,226.20. 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 January 27, 2025 appellant requested a prerecoupment hearing before a representative of OWCP's Branch of Hearings and Review. She additionally requested waiver of recovery of the overpayment.

On February 10, 2025 appellant submitted an incomplete Form OWCP-20 along with financial documentation, including credit card statements, automobile and plumbing repair costs, car insurance premiums, home security monitoring bills, and unreimbursed medical expenses.

A prerecoupment hearing was held on September 5, 2025.

On September 29, 2025 appellant submitted a completed Form OWCP-20. She reported total monthly income of \$1,389.00 in Social Security benefits, total monthly expenses of \$4,885.42, and assets totaling \$325.00. Appellant also submitted additional financial documentation including: a life insurance premium; a home mortgage statement; a cell phone bill; gas, water/sewer, and electric payment histories; gasoline receipts; and additional unreimbursed medical expenses and credit card statements.

By decision dated November 13, 2025, OWCP's hearing representative finalized the August 19, 2025 preliminary overpayment determination, finding that appellant received an overpayment of compensation in the amount of \$15,343.25 for the period November 1, 2022 through November 2, 2024 because she concurrently received SSA age-related retirement benefits and FECA wage-loss compensation, without an appropriate offset. The hearing representative

found that she was without fault in the creation of the overpayment but denied waiver of recovery of the overpayment because her monthly income exceeded her monthly expenses by more than \$50.00. The hearing representative noted that the evidence of record and financial information submitted by appellant demonstrated that she had \$4,605.93 in monthly income, including \$1,389.00 in Social Security benefits and \$3,216.91 in FECA benefits, \$3,305.61 in monthly expenses, and assets totaling \$325.00. The hearing representative required recovery of the overpayment by deducting \$804.00 per month from appellant's continuing compensation payments.

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.⁴ 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.⁵

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.⁶ 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.⁷

ANALYSIS -- ISSUE 1

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of \$15,343.25 for the period November 1, 2022 through November 2, 2024, for which she was without fault, because she concurrently received FECA wage-loss compensation payments and SSA age-related retirement benefits, without an appropriate offset.

The evidence of record indicates that, while appellant was receiving FECA wage-loss compensation, she was also receiving SSA age-related retirement benefits that were attributable to her federal service, without an appropriate offset. 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.⁸ The information provided by SSA established that appellant received SSA age-related retirement benefits that were attributable to her federal service commencing

⁴ 5 U.S.C. § 8102(a).

⁵ *Id.* at § 8116.

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

⁷ FECA Bulletin No. 97-09 (issued February 3, 1997); *see also N.B.*, Docket No. 18-0795 (issued January 4, 2019).

⁸ *Supra* note 5.

November 1, 2022. No appropriate offset was made to her FECA wage-loss compensation. Thus, the record establishes that she received an overpayment of FECA wage-loss compensation.

To determine the amount of the overpayment, the portion of the SSA age-related retirement benefits that were attributable to federal service must be calculated. OWCP received documentation, wherein SSA provided appellant's age-related retirement benefit rates with federal service and without federal service for the period November 1, 2022 through November 2, 2024. It provided its calculations for each relevant period based on the information provided by SSA and determined that she received an overpayment in the amount of \$15,343.25.

The Board has reviewed OWCP's calculations for the period November 1, 2022 through November 2, 2024 and finds that appellant received an overpayment of compensation in the amount of \$15,343.25.

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.⁹ 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.¹⁰

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.¹¹ 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 \$50.00.¹² 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.¹³ 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.¹⁴ Nonliquid assets include, but are not limited to, the fair market value of an owner's equity in property such as a camper, boat,

⁹ 5 U.S.C. § 8129(a)-(b); 20 C.F.R. §§ 10.433, 10.434, 10.436, and 10.437; *see M.C.*, Docket No. 19-0699 (issued February 12, 2020).

¹⁰ *C.B.*, Docket No. 25-0456 (issued May 13, 2025); *A.C.*, Docket No. 18-1550 (issued February 21, 2019); *see Robert Atchison*, 41 ECAB 83, 87 (1989).

¹¹ 20 C.F.R. § 10.436(a)(b).

¹² Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Final Overpayment Determinations*, Chapter 6.400.4a(3) (September 2020).

¹³ *Id.* at Chapter 6.400.4a(2).

¹⁴ *Id.* at Chapter 6.400.4b(3).

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.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.¹⁶ 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.¹⁷

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 be against equity and good conscience.¹⁸ 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.¹⁹

The record contains documentation indicating that appellant's monthly household income totaled \$4,605.93, and that her monthly household expenses totaled \$3,305.61. As her total monthly income exceeds her total monthly expenses by more than \$50.00, she has not shown that she needs substantially all of her current income to meet current ordinary and necessary living expenses.²⁰ Because appellant has not met the first prong of the two-prong test of whether recovery of the overpayment would defeat the purpose of FECA, it is unnecessary for OWCP to consider the second prong of the test, *i.e.*, whether her assets exceed the allowable resource base.²¹

¹⁵ *Id.* at Chapter 6.400.4b(3)(a), (b).

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

¹⁷ *Supra* note 11 at Chapter 6.400.4c(3).

¹⁸ *See J.R.*, Docket No. 17-0181 (issued August 12, 2020); *L.S.*, 59 ECAB 350 (2008).

¹⁹ *Supra* notes 11, 12.

²⁰ *Supra* note 11.

²¹ *See B.A.*, Docket No. 25-0630 (issued August 6, 2025).

The Board also finds that appellant has not established that she was entitled to waiver on the basis that recovery of the overpayment would be against equity and good conscience.²² She has not shown, for the reasons noted above, that she would experience severe financial hardship in attempting to repay the debt, or that she has relinquished a valuable right, or changed her position for the worse in reliance on the payments which created the overpayment.²³

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.²⁴

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.²⁵

Section 10.441 of OWCP's regulations²⁶ 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.²⁷

ANALYSIS -- ISSUE 3

The Board finds that OWCP improperly required recovery of the overpayment by deducting \$804.00 per month from appellant's continuing compensation payments.

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.²⁸ In this case, appellant responded to the preliminary overpayment determination by submitting financial documentation and a completed Form OWCP-20, reporting her income, assets, and expenses. However, OWCP required recovery at a rate based on an individual who did not provide any

²² See *J.D.*, Docket No. 94-2567 (issued October 17, 1996).

²³ See *B.C.*, Docket No. 19-0629 (issued June 2, 2020); *William J. Murphy*, 41 ECAB 569, 571-72 (1989).

²⁴ *J.R.*, Docket No. 24-0852 (issued November 14, 2024); *S.W.*, Docket No. 20-0363 (issued November 23, 2020).

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

²⁶ *Id.* at § 10.441(a).

²⁷ *Id.*; see *C.M.*, Docket No. 19-1451 (issued March 4, 2020).

²⁸ Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Initial Overpayment Actions*, Chapter 6.500.8c(1) (September 2018).

financial information. The Board, therefore, finds that OWCP abused its discretion by deducting \$804.00 per month from appellant's continuing compensation payments.²⁹

CONCLUSION

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of \$15,343.25, for the period November 1, 2022 through November 2, 2024, for which she was without fault, because she concurrently received FECA wage-loss compensation benefits and SSA age-related retirement benefits, without an appropriate offset. The Board further finds that OWCP properly denied waiver of recovery of the overpayment, but that it improperly required recovery by deducting \$804.00 per month from appellant's continuing compensation payments, every 28 days.

ORDER

IT IS HEREBY ORDERED THAT the November 13, 2025 decision of the Office of Workers' Compensation Programs is affirmed in part and reversed in part.

Issued: March 6, 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

²⁹ See *J.R.*, *supra* note 23; *S.F.*, Docket No. 25-0168 (issued March 13, 2025); *P.C.*, Docket No. 25-0105 (issued January 21, 2025).