

fault, because she continued to receive wage-loss compensation for total disability following her return to work; and (2) whether OWCP properly denied waiver of recovery of the overpayment.

FACTUAL HISTORY

On February 13, 2025 appellant, then a 32-year-old occupational health nurse, filed a traumatic injury claim (Form CA-1) alleging that on February 10, 2025 she sustained a left knee contusion when she slipped and fell as she exited her truck while in the performance of duty. On March 19, 2025 OWCP accepted the claim for strain of other muscle(s) and tendon(s) at lower leg level, left leg, initial encounter; and contusion of left knee, initial encounter. It advised appellant that if she were to receive a compensation check for a period she actually worked, she should return it immediately to prevent an overpayment of compensation. OWCP thereafter paid her wage-loss compensation on the supplemental rolls from April 3 through 19, 2025, on the periodic rolls from April 20 through June 14, 2025, and again on the supplemental rolls from June 15 through 27, 2025.

In a report of work status (Form CA-3), the employing establishment related that appellant had returned to full-time modified-duty work with restrictions on May 19, 2025.³

In a preliminary overpayment determination dated August 11, 2025, OWCP notified appellant that she had received an overpayment of compensation in the amount of \$3,979.87 for the period May 19 through June 14, 2025, because she received compensation for total disability after she returned to work on May 19, 2025. It explained that she received \$4,252.65 every 28 days at a daily rate of \$157.51. OWCP further noted that appellant was entitled to compensation for 9.84 hours for leave without pay (LWOP) following her return to work, for a total of \$272.78.⁴ It found that the difference between the compensation paid, \$4,252.65 and the compensation payable, \$272.78, for the period May 19 through June 14, 2025 was \$3,979.87. OWCP further advised her of its preliminary determination that she was without fault in the creation of the overpayment. It requested that appellant submit a completed overpayment recovery questionnaire (Form OWCP-20), along with supporting financial documentation, including copies of income tax returns, bank account statements, bills, pay slips, and any other records to support her reported income, assets, and expenses. OWCP advised appellant that it would deny waiver of recovery of the overpayment if she failed to furnish the requested financial information within 30 days. Additionally, it notified her that within 30 days of the date of the letter, she could request a final decision based on the written evidence, or a precoupment hearing.

On September 10, 2025 OWCP received appellant's request for OWCP's review of the written evidence regarding possible waiver of recovery of the overpayment, contending that she had informed her specialist about her return to work and had fallen behind on her bills. Appellant also submitted a Form OWCP-20 dated September 10, 2025. She did not report any monthly

³ In a June 13, 2025 time analysis form (Form CA-7a) appellant claimed 9.84 hours of leave without pay, for physical therapy appointments on June 4,5,10, and 12, 2025.

⁴ While OWCP noted that appellant had received \$272.78 for 9.84 "days" of LWOP, this appears to be a typographical error as the amount of compensation represented 9.84 hours of LWOP.

income. Appellant reported total monthly expenses of \$4,403.00. She reported assets totaling \$100.00. Appellant also submitted some supporting financial documentation.

In a memorandum of telephone call (Form CA-110) dated September 24, 2025, appellant informed OWCP that her current income was only from working for a private employer. She related that she had resigned from the employing establishment, effective September 10, 2025. On September 29, 2025 appellant submitted four pay stubs from a private sector employer indicating that she earned total net pay of \$281.92 for the period August 1 through 15, 2025; total net pay of \$3,537.74 for the period August 16 through 31, 2025; total net pay of \$140.96 for the period September 1 through 15, 2025; and total net pay of \$583.21 for the period September 16 through 30, 2025.

By decision dated January 9, 2026, OWCP finalized the August 11, 2025 preliminary overpayment determination that appellant had received an overpayment of compensation in the amount of \$3,979.87 for the period May 19 through June 14, 2025 because she continued to receive FECA wage-loss compensation for total disability after her return to work on May 19, 2025. It determined that she was without fault in the creation of the overpayment, but denied waiver of recovery of the overpayment. OWCP required recovery of the overpayment in the amount of \$118.00 per month.

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 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.⁶

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.⁷ 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.⁸ A claimant is not entitled to receive total disability benefits and actual earnings for the same time

⁵ 5 U.S.C. § 8102(a).

⁶ *Id.* at § 8129(a).

⁷ *Id.* at § 8116(a).

⁸ 20 C.F.R. § 10.500(a).

period.⁹ 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 total disability.¹⁰

ANALYSIS -- ISSUE 1

The Board finds that appellant received an overpayment of compensation in the amount of \$3,979.87 for the period May 19 through June 14, 2025, for which she was without fault, as she continued to receive total disability compensation following her return to work.

As noted, appellant resumed employment on May 19, 2025. OWCP, however, continued to pay her wage-loss compensation for total disability following her return to work through June 14, 2025. Therefore, an overpayment of compensation was created in this case.

OWCP explained that appellant received \$4,252.65 every 28 days at a daily rate of \$157.51. It further noted that she was entitled to compensation for 9.84 LWOP following her return to work, for a total of \$272.78. OWCP found that the difference between the compensation paid, \$4,252.65 and the compensation payable, \$272.78, for the period May 19 through June 14, 2025 was \$3,979.87. The Board has reviewed OWCP's calculations and finds that it properly calculated appellant's overpayment of compensation in the amount of \$3,979.87 for the period May 19 through June 14, 2025.

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

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

⁹ 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).

¹⁰ Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Identifying and Calculating an Overpayment*, Chapter 6.200.1a (September 2020); see also *S.S.*, *id.*; *L.T.*, *id.*; *K.P.*, *id.*; *C.H.*, *id.*

¹¹ 5 U.S.C. § 8129(a)-(b).

¹² 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).

as determined by OWCP.¹³ 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.¹⁴

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.¹⁵ 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.¹⁶

ANALYSIS -- ISSUE 2

The Board finds that OWCP properly denied waiver of recovery of the overpayment.

The fact that OWCP may have been negligent in the creation of the overpayment does not entitle appellant to waiver of recovery of the overpayment.¹⁷ 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 Appellant had the responsibility to provide the appropriate financial information to OWCP.¹⁹ OWCP explained the importance of providing the completed overpayment questionnaire and supporting financial documentation, including copies of income tax returns, bank account statements, bills, pay slips, and any other records to support income, expenses, and assets. While appellant completed the Form OWCP-20, she only submitted some supporting financial documentation. As she did not submit sufficient information as required under section 10.438 of OWCP's regulations, which was necessary to determine her eligibility for waiver, the Board finds that OWCP properly denied waiver of recovery of the overpayment.²⁰

¹³ 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).

¹⁴ *Id.* at § 10.437(a)(b).

¹⁵ *Id.* at § 10.438(a).

¹⁶ *Id.* at § 10.438(b).

¹⁷ *See L.D.*, Docket No. 19-0606 (issued November 21, 2019); *R.B.*, Docket No. 15-0808 (issued October 26, 2015).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *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).

CONCLUSION

The Board finds that appellant received an overpayment of compensation in the amount of \$3,979.87 for the period May 19 through June 14, 2025, for which she was without fault, because she continued to receive wage-loss compensation for total disability following her return to work. The Board further finds that OWCP properly denied waiver of recovery of the overpayment.

ORDER

IT IS HEREBY ORDERED THAT the January 9, 2026 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 13, 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