

ISSUES

The issues are: (1) whether OWCP properly determined that appellant received an overpayment of compensation in the amount of \$22,468.73, for the period November 22, 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 overpayment; and (3) whether OWCP properly required recovery of the overpayment by deducting \$1,030.00 from appellant's continuing compensation payments, every 28 days.

FACTUAL HISTORY

On May 7, 2013 appellant, then a 58-year-old auditor, filed a traumatic injury claim (Form CA-1) alleging that on May 3, 2013 he injured his right knee and lower back when he fell against a cubicle and onto the floor while in the performance of duty. OWCP accepted the claim for neck, back, and right knee sprains, post-traumatic headache, and displacement of lumbar intervertebral disc without myelopathy.⁴ It later expanded its acceptance of the claim to include unilateral primary osteoarthritis of the right knee. OWCP paid appellant wage-loss compensation on the supplemental rolls effective June 20, 2013, and on the periodic rolls effective October 20, 2013.

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

On June 10, 2024 OWCP requested information from SSA regarding potential dual benefits.

OWCP thereafter received a completed dual benefits form from SSA dated June 11, 2024, which indicated that appellant received SSA age-related retirement benefits as of October 2019 and provided benefit rates with and without federal service. The rates differed from those SSA had previously provided in a dual benefits form dated December 16, 2020.

On July 22 and October 28, 2024 OWCP requested clarification from SSA.

OWCP thereafter received a completed dual benefits form from SSA dated October 29, 2024. The form indicated that appellant received SSA age-related retirement benefits as of October 2019 and provided appellant's SSA age-related retirement benefit rates with and without federal service. Beginning December 2020, the SSA rate with federal service was \$1,742.90 and without federal service was \$904.90. Beginning December 2021, the SSA rate with federal service was \$1,826.70 and without federal service was \$958.30. Beginning December 2022, the SSA rate with federal service was \$1,985.50 and without federal service was \$1,041.60. Beginning December 2023, the SSA rate with federal service was \$2,049.00 and without federal service was \$1,075.00. SSA indicated that previous FERS/SSA dual benefits

⁴ OWCP assigned the present claim OWCP File No. xxxxxx005. Appellant previously filed a Form CA-1 for an October 16, 2012 injury, which OWCP accepted for lumbar sprain, right lower leg contusion, chronic pain syndrome, lumbar facet syndrome, panniculitis affecting the neck, back, sacral, and sacrococcygeal regions, internal derangement of right knee, and lumbar intervertebral disc displacement under OWCP File No. xxxxxx951. OWCP has administratively combined OWCP File No. xxxxxx005 and xxxxxx951, with the latter serving as the master file.

forms were incorrect because the calculations erroneously excluded credit for appellant's military service in 1988 and failed to remove federal earnings for 1989, 1990, and 1991.

On November 3, 2024 OWCP adjusted appellant's wage-loss compensation payments to reflect an offset of \$899.08 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 \$4,116.33, per 28-day pay period.

In a November 15, 2024 preliminary overpayment determination, OWCP notified appellant that he had received an overpayment of compensation in the amount of \$22,468.73 for the period November 22, 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 an offset overpayment calculation, in which it used the information provided by SSA on October 29, 2024 to calculate the 28-day offset for the relevant periods. OWCP determined that, during the period November 22 through 30, 2022, appellant received an overpayment in the amount of \$257.66; during the period December 1, 2022 through November 30, 2023, he received an overpayment in the amount of \$11,357.89; and during the period December 1, 2023 through November 2, 2024, he received an overpayment in the amount of \$10,853.18, for a total overpayment of \$22,468.73. It further advised him of its preliminary determination that he was without fault in the creation of the overpayment and requested that he 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 he could request a final decision based on the written evidence or a prerecoupment hearing within 30 days.

On November 25, 2024 appellant requested a prerecoupment hearing before a representative of OWCP's Branch of Hearings and Review and requested waiver of recovery of the overpayment.

A prerecoupment hearing was held on March 20, 2025.

By decision dated April 8, 2025, an OWCP hearing representative set aside the November 15, 2024 preliminary overpayment determination and remanded the case to OWCP to specifically inform SSA that appellant was covered by the FERS retirement system and to request specific FERS offset information.

On April 15, 2025 OWCP requested clarification from SSA. In a response of even date, SSA confirmed that the SSA rates with and without federal service in its October 29, 2024 dual benefits form were correct.

In an April 16, 2025 revised preliminary overpayment determination, OWCP notified appellant that he had received an overpayment of compensation in the amount of \$22,468.73 for the period November 22, 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 a detailed offset overpayment calculation, in which it used the information provided by SSA on October 29, 2024 to calculate the 28-day offset for the relevant periods. OWCP further advised appellant of its preliminary determination that he was without fault in the creation of the overpayment and requested that he complete an overpayment action request form and a Form

OWCP-20 and submit supporting financial documentation. Additionally, it notified him that he could request a final decision based on the written evidence or a prerecoupment hearing within 30 days.

On April 25, 2025 appellant requested a prerecoupment hearing before a representative of OWCP's Branch of Hearings and Review and requested waiver of recovery of the overpayment.

A hearing was held on December 18, 2025, 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 January 23, 2026, OWCP's hearing representative finalized the April 16, 2025 preliminary overpayment determination, finding that appellant received an overpayment of compensation in the amount of \$22,468.73 during the period November 22, 2022 through November 2, 2024 because he concurrently received SSA age-related retirement benefits and FECA wage-loss compensation, without an appropriate offset. She found that he was without fault in the creation of the overpayment, but denied waiver of recovery of the overpayment. OWCP required recovery of the overpayment by deducting \$1,030.00 from appellant's continuing compensation payments, every 28 days.⁵

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.⁶ 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.⁷

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.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 OWCP properly determined that appellant received an overpayment of compensation in the amount of \$22,468.73, for the period November 22, 2022 through

⁵ The Board notes that appellant's net wage-loss compensation payment at the time was \$4,127.60.

⁶ 5 U.S.C. § 8102(a).

⁷ *Id.* at § 8116.

⁸ 20 C.F.R. § 10.421(d); *see S.M.*, Docket No. 17-1802 (issued August 20, 2018); *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).

November 2, 2024, for which he was without fault, because he 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, he was also receiving SSA age-related retirement benefits that were attributable to his federal service, without 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.¹⁰ The information provided by SSA established that appellant received SSA age-related retirement benefits that were attributable to his federal service commencing November 22, 2022. No appropriate offset was made to his FECA wage-loss compensation. Thus, the record establishes that he received an overpayment of FECA wage-loss compensation.

With regard to the amount of the overpayment, OWCP provided its detailed calculations for each relevant period based on the information provided by SSA and determined that he received an overpayment in the amount of \$22,468.73. The Board has reviewed OWCP's calculations for the period November 22, 2022 through November 2, 2024 and finds that appellant received an overpayment of compensation in the amount of \$22,468.73.

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 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.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

¹⁰ *Supra* note 7.

¹¹ 5 U.S.C. § 8129(a)-(b).

¹² *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).

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).

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.

As OWCP found appellant without fault in the creation of the overpayment, waiver of recovery of the overpayment 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.¹⁷

In its preliminary overpayment determination dated April 16, 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 financial documentation 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. He did not complete a Form OWCP-20 outlining his income, assets, and expenses. 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.¹⁸

Accordingly, as appellant did not submit the information required under 20 C.F.R. § 10.438 of OWCP's regulations to determine his eligibility for waiver, 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.¹⁹

¹⁴ *Id.* at § 10.437(a)-(b).

¹⁵ *Id.* at § 10.438(a).

¹⁶ *Id.* at § 10.438(b).

¹⁷ 5 U.S.C. § 8129.

¹⁸ *Supra* note 13 at § 10.438.

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

Section 10.441 of OWCP's regulations²⁰ 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.²¹

ANALYSIS -- ISSUE 3

The Board finds that OWCP properly required recovery of the overpayment by deducting \$1,030.00 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.²² 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 January 23, 2026 final overpayment determination. The Board, therefore, finds that OWCP properly required recovery of the overpayment by deducting \$1,030.00 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 \$22,468.73 for the period November 22, 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 overpayment. The Board also finds that OWCP properly required recovery of the overpayment by deducting \$1,030.00 from appellant's continuing compensation payments, every 28 days.

²⁰ *Id.* at § 10.441(a).

²¹ *Id.*, see *C.M.*, Docket No. 19-1451 (issued March 4, 2020).

²² Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Debt Liquidation*, Chapter 6.500.8c(1) (September 2018).

ORDER

IT IS HEREBY ORDERED THAT the January 23, 2026 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 29, 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