



## **ISSUES**

The issues are: (1) whether OWCP properly determined that appellant received an overpayment of compensation in the amount of \$13,581.91 for the period December 1, 2023 through September 6, 2025, 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 \$335.97 from appellant's continuing compensation payments, every 28 days.

## **FACTUAL HISTORY**

On November 4, 2014 appellant, then a 57-year-old city letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on October 14, 2014 he injured his right shoulder when he fell down stairs while in the performance of duty.<sup>4</sup> He stopped work on November 1, 2014. OWCP accepted the claim for thoracic sprain, sprain of the right shoulder, and complete right shoulder rotator cuff tear. It paid appellant wage-loss compensation on the supplemental rolls effective December 16, 2014 and on the periodic rolls effective March 8, 2015.

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

On August 11, 2025 OWCP requested information from SSA regarding potential dual benefits.

OWCP thereafter received a completed dual benefits form from SSA dated August 23, 2025. SSA reported that appellant received SSA age-related retirement benefits as of December 2023 and provided appellant's SSA age-related retirement benefit rates, with and without federal service. Beginning December 2023, appellant's SSA rate with federal service was \$1,846.60 and without federal service was \$1,215.70. Beginning December 2024, appellant's SSA rate with federal service was \$1,892.70 and without federal service was \$1,246.00.

On September 25, 2025 OWCP notified appellant that his wage-loss compensation payments would be adjusted to reflect an offset of \$596.95 per 28-day pay period for his SSA age-related retirement benefits attributable to his federal service. Beginning October 28, 2025, it accordingly adjusted his wage-loss compensation to \$1,505.36 every 28 days.

In a November 14, 2025 preliminary overpayment determination, OWCP notified appellant that he had received an overpayment of compensation in the amount of \$13,581.91 for the period December 1, 2023 through September 6, 2025 because he concurrently received FECA wage-loss compensation and SSA age-related retirement benefits, without an appropriate offset. It provided an offset overpayment calculation worksheet, which indicated that OWCP used the

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<sup>4</sup> OWCP assigned the present claim OWCP File No. xxxxxx371. Appellant also has prior accepted claims. Under OWCP File No. xxxxxx145, OWCP accepted appellant's traumatic injury claim (Form CA-1) for a September 11, 2006 open wound (dog bite), right thigh burn, and acute stress reaction Under OWCP File No. xxxxxx145, OWCP accepted appellant's occupational disease claim (Form CA-2) for right thumb cellulitis ; under OWCP File No. xxxxxx379, OWCP accepted appellant's occupational disease claim (Form CA-2) for left carpal tunnel syndrome. OWCP has administratively combined OWCP File Nos. xxxxxx145, xxxxxx465, xxxxxx379, and xxxxxx371, with the latter serving as the master file.

information provided by SSA on August 23, 2025 to calculate the 28-day offset for the relevant periods. OWCP determined that, for the period December 1, 2023 through November 30, 2024, appellant received an overpayment in the amount of \$7,612.41, and for the period December 1, 2024 through September 6, 2025, he received an overpayment in the amount of \$5,969.50, resulting in a total overpayment amount of \$13,581.91. It 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 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 December 15, 2025 appellant requested a decision based on the written evidence and waiver of recovery of the overpayment. He submitted a completed Form OWCP-20, dated December 10, 2025, wherein he reported total monthly income of \$1,892.70, total monthly expenses of \$2,900.00, and total assets of \$8,480.00. Appellant indicated that he did not have a spouse or dependents.

In a letter dated December 18, 2025, OWCP again requested that appellant 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.

Appellant thereafter submitted supporting financial documentation.

By decision dated January 9, 2026, OWCP finalized the preliminary overpayment determination, finding that appellant received an overpayment of compensation in the amount of \$13,581.91 for the period December 1, 2023 through September 6, 2025 because he concurrently received SSA age-related retirement benefits and FECA wage-loss compensation benefits, without an appropriate offset. It further found that he was without fault in the creation of the overpayment, but denied waiver of recovery of the overpayment.

### **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.<sup>5</sup> 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.<sup>6</sup>

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.<sup>7</sup> 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

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<sup>5</sup> 5 U.S.C. § 8102(a).

<sup>6</sup> *Id.* at § 8116.

<sup>7</sup> 20 C.F.R. § 10.421(d); *see S.M.*, Docket No. 17-1802 (issued August 20, 2018); *L.J.*, 59 ECAB 264 (2007).

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.<sup>8</sup>

### **ANALYSIS -- ISSUE 1**

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of \$13,581.91 for the period December 1, 2023 through September 6, 2025, 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 both FECA wage-loss compensation and SSA age-related retirement benefits for the period December 1, 2023 through September 6, 2025. No appropriate offset was made. 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.<sup>9</sup> Thus, the record establishes that appellant received an overpayment of FECA wage-loss compensation for that period.

With regard to the amount of the overpayment, SSA provided appellant's age-related retirement benefit rates with and without federal service for the period December 1, 2023 through September 6, 2025. OWCP provided its overpayment calculations based on the information provided by SSA and determined that he received an overpayment in the amount of \$13,581.91. The Board has reviewed OWCP's calculations and finds that appellant received an overpayment of compensation in the amount of \$13,581.91.

### **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.<sup>10</sup> 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.<sup>11</sup>

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.<sup>12</sup> 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

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<sup>8</sup> FECA Bulletin No. 97-09 (issued February 3, 1997); *see also N.B.*, Docket No. 18-0795 (issued January 4, 2019).

<sup>9</sup> *Supra* note 6.

<sup>10</sup> 5 U.S.C. § 8129(a)-(b).

<sup>11</sup> *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).

<sup>12</sup> 20 C.F.R. § 10.436(a)(b).

\$50.00.<sup>13</sup> 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.<sup>14</sup> 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.<sup>15</sup> Nonliquid assets include, but are not limited to, the fair market value of an owner's equity in property such as a camper, boat, 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.<sup>16</sup>

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.<sup>17</sup> 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.<sup>18</sup>

### **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. As noted above, even if a claimant is found to be 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.<sup>19</sup>

On his December 10, 2025 Form OWCP-20, appellant reported total assets of \$8,480.00. As explained above, in determining whether recovery of the overpayment would defeat the purpose of FECA, OWCP considers whether assets exceed a resource base of \$6,200.00 for an individual or \$10,300.00 for an individual with a spouse or dependent.<sup>20</sup> As appellant's assets totaling \$8,480.00 exceed the allowable resource base for an individual with no spouse or

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<sup>13</sup> Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Final Overpayment Determinations*, Chapter 6.400.4a(3) (September 2020).

<sup>14</sup> *Id.* at Chapter 6.400.4a(2).

<sup>15</sup> *Id.* at Chapter 6.400.4b(3).

<sup>16</sup> *Id.* at Chapter 6.400.4b(3)(a), (b).

<sup>17</sup> 20 C.F.R. § 10.437; *see E.H.*, Docket No. 18-1009 (issued January 29, 2019).

<sup>18</sup> *Supra* note 13 at Chapter 6.400.4c(3).

<sup>19</sup> *Supra* note 17.

<sup>20</sup> *Supra* note 14 at Chapter 6.400.4a(2). *See also S.W.*, Docket No. 20-0363 (issued November 23, 2020); *H.F.*, Docket No. 17-0101 (issued September 5, 2017).

dependents, recovery of the overpayment would not defeat the purpose of FECA. Because appellant has not established that recovery of the overpayment would defeat the purpose of FECA, it is not necessary for OWCP to consider whether he needs substantially all of his current income to meet ordinary and necessary living expenses.<sup>21</sup>

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

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.<sup>24</sup>

### **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.<sup>25</sup>

Section 10.441 of OWCP's regulations<sup>26</sup> 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.<sup>27</sup>

### **ANALYSIS -- ISSUE 3**

The Board finds that OWCP properly required recovery of the overpayment by deducting \$335.97 from appellant's continuing compensation payments, every 28 days.

In determining whether appellant could repay the overpayments by deducting from his continuing compensation payments, OWCP took into account the 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

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<sup>21</sup> *S.R.*, Docket No. 20-1416 (issued September 8, 2022); *M.H.*, Docket No. 19-1497 (issued September 9, 2020).

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

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

<sup>24</sup> *J.R.*, Docket No. 24-0852 (issued November 14, 2024); *S.W.*, *supra* note 20.

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

<sup>26</sup> *Id.* at § 10.441(a).

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

fashion.<sup>28</sup> Thus, the Board finds that OWCP properly required recovery of the overpayment by deducting \$335.97 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 \$13,581.91 for the period December 1, 2023 through September 6, 2025, 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 finds that OWCP properly denied waiver of recovery of the overpayment of compensation. The Board further finds that OWCP properly required recovery of the overpayments by deducting \$335.97 from appellant's continuing compensation payments, every 28 days.

**ORDER**

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

Issued: May 15, 2026  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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<sup>28</sup> See *C.S.*, Docket No. 23-0587 (issued July 9, 2025); *J.B.*, Docket No. 24-0876 (issued September 26, 2024); *L.F.*, Docket No. 15-0489 (issued May 11, 2015).