

Management (OPM) retirement benefits and FECA wage-loss compensation; and (2) whether OWCP properly denied waiver of recovery of the overpayment.

FACTUAL HISTORY

On August 12, 2003, appellant, then a 44-year-old mail handler, filed an occupational disease claim (Form CA-2) alleging that she re-injured her neck and upper extremities due to factors of her federal employment.³ OWCP accepted the claim for bilateral cervical radiculitis, cervical radiculopathy, spondylopathy, cervical disc displacement without myelopathy, brachial neuritis, and other allied disorders of the spine. It paid appellant wage-loss compensation on the periodic rolls, effective July 20, 2010.

On May 8, 2024, OWCP received an election of benefits form (Form CA-1105), signed by appellant on May 1, 2024, in which she elected to receive OPM retirement benefits in lieu of FECA benefits, effective June 1, 2024.

In a letter dated May 17, 2024, OWCP advised OPM of appellant's election to receive OPM retirement benefits in lieu of FECA benefits, effective June 1, 2024. It requested that OPM commence annuity payments effective that date.

On July 15, 2024, appellant requested that OWCP stop payment of her FECA wage-loss compensation effective June 1, 2024. She indicated that OPM notified her that it had sent a letter to OWCP on June 24, 2024 to stop payment. Appellant also indicated that she had begun to receive retirement annuity payments from OPM.

OWCP terminated appellant's wage-loss compensation, effective July 14, 2024.

In follow-up letters dated July 16, 2024, OWCP again advised OPM that appellant had elected OPM retirement benefits, effective June 1, 2024, and requested that OPM reimburse OWCP in the amount of \$5,923.99 for FECA benefits paid during the period June 1 through July 13, 2024. It also requested the period and amount of any OPM annuity payments already issued.

In a letter dated June 27, 2025, OPM informed OWCP that it began issuing annuity payments to appellant on June 1, 2024.

On July 21, 2025, OWCP issued a preliminary overpayment determination that an overpayment of compensation was created in the amount of \$5,923.99, for the period June 1 through July 13, 2024, because appellant received prohibited dual benefit payments. It explained that the overpayment occurred because she concurrently received both FECA wage-loss compensation and OPM retirement benefits, which resulted in a prohibited dual benefit payment. OWCP provided appellant with its calculations which showed that, after her election of OPM retirement benefits, she continued to receive FECA wage-loss compensation from June 1 through July 13, 2024 in the amount of \$5,923.99. It further made a preliminary determination that appellant was without fault in the creation of the overpayment. OWCP requested that she complete

³ OWCP assigned the present claim OWCP File No. xxxxxx990. Appellant previously filed a Form CA-2 for injuries to her index fingers and right arm due to factors of her federal employment, including repetitive grasping and gripping of letters, which OWCP denied under OWCP File No. xxxxxx685. OWCP has not administratively combined OWCP File Nos. xxxxxx990 and xxxxxx685.

an enclosed overpayment recovery questionnaire (Form OWCP-20) and submit supporting financial documentation, including copies of income tax returns, bank account statements, bills, pay slips, and any other records to support her reported income and expenses. Additionally, it enclosed an overpayment action request form and notified appellant that, within 30 days of the date of the letter, she could request a final decision based on the written evidence, or a prerecoupment hearing.

By letter dated August 1, 2025, appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review with respect to the July 21, 2025 preliminary overpayment determination.

An OPM benefits confirmation form dated August 5, 2025 indicated that OPM had approved appellant's application for retirement annuity benefits, that her date of first entitlement to OPM retirement annuity benefits was September 19, 2014, and that OPM first issued payment on June 1, 2024.

By letter dated November 13, 2025, OWCP notified appellant that a review of the written record was not available with respect to the July 21, 2025 preliminary overpayment determination.

By letter dated November 13, 2025, appellant requested a final decision based upon the written evidence.

By decision dated December 10, 2025, OWCP finalized the July 21, 2025 preliminary overpayment determination, finding that appellant had received an overpayment of compensation in the amount of \$5,923.99 for the period June 1 through July 13, 2024, because she concurrently received both FECA wage-loss compensation and OPM retirement annuity payments. It found 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 by payment in full within 30 days.

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(a) of OWCP's implementing regulations provides that a beneficiary may not receive wage-loss compensation concurrently with a federal retirement or survivor annuity.⁶ The beneficiary must elect the benefit that he or she wishes to receive.⁷ OWCP's procedures also

⁴ 5 U.S.C. § 8102(a).

⁵ *Id.* at § 8116.

⁶ 20 C.F.R. § 10.421(a).

⁷ *Id.*

explain that the employee must make an election between FECA and OPM retirement benefits. The employee has the right to elect the most advantageous monetary benefit.⁸

ANALYSIS -- ISSUE 1

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of \$5,923.99, for the period June 1 through July 13, 2024, for which she was without fault, because she concurrently received OPM retirement benefits and FECA wage-loss compensation.

The case record establishes that appellant received FECA wage-loss compensation on the periodic rolls commencing July 20, 2010. On May 1, 2024 appellant elected OPM retirement benefits in lieu of FECA wage-loss compensation, effective June 1, 2024. OPM began paying her retirement annuity benefits effective June 1, 2024. Appellant, however, continued to receive FECA wage-loss compensation through July 13, 2024.

A FECA beneficiary may not receive wage-loss compensation concurrently with a federal retirement or survivor annuity.⁹ The clear language of section 8116(a) of FECA, section 10.421(a) of OWCP's implementing regulations, and OWCP's procedures prohibit the concurrent receipt of FECA wage-loss compensation and a federal annuity.¹⁰ The evidence of record establishes that appellant continued to receive FECA wage-loss compensation while concurrently receiving OPM retirement benefits from June 1 through July 13, 2024.¹¹ Therefore, an overpayment of compensation was created.¹²

With regard to the amount of the overpayment, OWCP provided its calculations showing that appellant received \$5,923.99 in FECA wage-loss compensation for the period June 1 through July 13, 2024. The Board has reviewed OWCP's calculations and finds that it properly determined that appellant received prohibited dual benefits totaling \$5,923.99.

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.¹³

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

⁸ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Dual Benefits*, Chapter 2.1000.4 (January 1997); *see also* *R.S.*, Docket No. 11-0428 (issued September 27, 2011); *Harold Weisman*, Docket No. 93-1335 (issued March 30, 1994).

⁹ *Supra* note 5; *B.C.*, Docket No. 20-1415 (issued April 14, 2021).

¹⁰ *Supra* notes 5-7; *M.G.*, Docket No. 20-0867 (issued October 13, 2021).

¹¹ *See S.C.*, Docket No. 25-0825 (issued December 17, 2025); *J.S.*, Docket No. 17-1395 (issued October 27, 2017).

¹² *Supra* note 8; *E.F.*, Docket No. 18-1320 (issued March 13, 2019); *C.H.*, Docket No. 18-0772 (issued November 14, 2018).

¹³ 5 U.S.C. § 8129(a)-(b).

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.¹⁴ 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.¹⁵

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.¹⁶ 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.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. As noted above, even if a claimant is found 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.¹⁸

In its preliminary overpayment determination dated July 21, 2025, OWCP explained the importance of providing the completed Form OWCP-20 and supporting financial documentation. Appellant, however, did not provide the requested financial information prior to OWCP's issuance of the December 10, 2025 final overpayment determination. 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.¹⁹

¹⁴ 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).

¹⁵ *Id.* at § 10.437(a)-(b).

¹⁶ *Id.* at § 10.438(a); *M.S.*, Docket No. 18-0740 (issued February 4, 2019).

¹⁷ *Id.* at § 10.438(b).

¹⁸ *Supra* note 13.

¹⁹ 20 C.F.R. § 10.438.

Consequently, as appellant did not submit the information required under 20 C.F.R. § 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

CONCLUSION

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of \$5,923.99 for the period June 1 through July 13, 2024, for which she was without fault, because she concurrently received OPM retirement benefits and FECA wage-loss compensation. The Board further finds that OWCP properly denied waiver of recovery of the overpayment.²¹

ORDER

IT IS HEREBY ORDERED THAT the December 10, 2025 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

²⁰ See *E.T.*, Docket No. 22-0234 (issued August 17, 2022); *T.E.*, Docket No. 19-0348 (issued December 11, 2019).

²¹ With respect to recovery of the overpayment of compensation, the Board's jurisdiction is limited to reviewing those cases where OWCP seeks recovery from continuing compensation benefits under FECA. As appellant is no longer receiving wage-loss compensation, the Board does not have jurisdiction with respect to the recovery of the overpayment under the Debt Collection Act. See *T.C.*, Docket No. 21-0612 (issued December 2, 2021); *R.W.*, Docket No. 18-1059 (issued February 6, 2019); *Cheryl Thomas*, 55 ECAB 610 (2004).