

In July 8 and December 2, 2025 letters, OWCP requested that the Office of Personnel Management (OPM) provide information regarding whether any OPM retirement annuity payments had been made to appellant and, if so, to identify the period they had been made.

In a December 18, 2025 letter to OPM, OWCP asserted that appellant elected to receive OPM benefits effective May 1, 2025 in lieu of Federal Employees' Compensation Act (FECA) benefits. It requested that OPM, "[r]eimburse [OWCP] the amount of \$6,027.56 for FECA benefits paid during the period [May 1 through June 14, 2025]." It further indicated that appellant elected benefits under the Civil Service Retirement System (CSRS)/Federal Employees Retirement System (FERS) effective May 1, 2025, but continued to receive disability compensation benefits under FECA through June 14, 2025. OWCP stated, "Please state whether [appellant] received retirement benefits under FERS/CSRS during this period; and if so, provide the amount paid and the beginning and end dates of the period for which retirement benefits were paid concurrently with FECA disability compensation benefits."

In a December 18, 2025 letter to OWCP, OPM indicated that "OPM began making payments to [appellant] effective May 1, 2025."² OPM attached a form (Form RI 20-8) which indicated that an "annuity commenced effective" May 1, 2025 in the form of a "monthly gross annuity" of \$4,360.00.

On December 18, 2025 OWCP issued a preliminary overpayment determination that an overpayment of compensation was created in the amount of \$6,027.56, for the period May 1 through June 14, 2025, because appellant received prohibited dual benefit payments. It explained that the overpayment occurred because she concurrently received both FECA benefits and OPM retirement annuity benefits during this period, which resulted in a prohibited dual benefit payment. OWCP also made a preliminary determination that appellant was without fault in the creation of the overpayment. It provided her with an overpayment action request form, and an overpayment recovery questionnaire (Form OWCP-20). It afforded her 30 days to respond.

In a February 5, 2026 letter, OWCP again requested that OPM provide information regarding whether any OPM retirement annuity payments had been made to appellant and, if so, to identify the period they had been made. No response was received by OWCP.

By decision dated February 9, 2026, OWCP finalized the preliminary overpayment determination, finding that appellant received an overpayment of compensation in the amount of \$6,027.56 for the period May 1 through June 14, 2025, and that she was without fault in the creation of the overpayment. It denied waiver of recovery of the overpayment as she had not submitted the requested financial information.

The Board, having duly considered this matter, finds that OWCP improperly determined that appellant received an overpayment of compensation in the amount of \$6,027.56 for the period May 1 through June 14, 2025.

² OPM also stated, "This letter is to inform you that OPM is unable to reimburse OWCP for the overpayment from [appellant's] annuity. You will need to contact [appellant] to resolve the overpayment with her."

Section 8102(a) of FECA provides that the United States shall pay compensation for the disability of an employee resulting from personal injury sustained while in the performance of his or her federal employment.³ 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.⁴ 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.⁵ The beneficiary must elect the benefit that he or she wishes to receive.⁶ OWCP's procedures also explain that the employee must make an election between FECA benefits and OPM benefits.⁷

While the record reflects that appellant received FECA compensation for this period, the Board finds that OWCP has not established that she also received OPM retirement benefits for this period.⁸

Although the record contains a December 18, 2025 letter and form in which OPM indicated that she began to receive annuity benefits effective May 1, 2025, the record lacks specific information regarding the total amount of such possible payments and whether they continued for the length of the declared overpayment, May 1 through June 14, 2025. On February 5, 2026 OWCP requested that OPM provide information regarding whether any OPM retirement annuity payments had been made to appellant and, if so, to identify the period they had been made. Such information would be necessary to establish whether she had received OPM benefits for the period in question which, along with the receipt of FECA benefits, would constitute a prohibited dual payment.⁹ OWCP did not receive a response from OPM to this request and it issued its February 9, 2026 final overpayment decision without clarifying this matter.

The Board has previously held that the mere fact that a claimant received FECA benefits after the effective date of an OPM election will not establish receipt of a prohibited dual benefit.¹⁰ While the record reflects that appellant received FECA benefits for this period, the Board finds that OWCP had not established that she also received OPM benefits for that same period.¹¹

³ 5 U.S.C. § 8102(a).

⁴ *Id.* at § 8116.

⁵ 20 C.F.R. § 10.421(a).

⁶ *Id.*

⁷ See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Dual Benefits*, Chapter 2.1000.4a (January 1997); see also *R.S.*, Docket No. 11-0428 (issued September 27, 2011).

⁸ See *M.C.*, Docket No. 18-0074 (issued August 1, 2019); *R.R.*, Docket No. 18-0032 (issued May 3, 2018).

⁹ See *S.F.*, Docket No. 17-1935 (issued August 13, 2018).

¹⁰ *C.P.*, Docket No. 19-0732 (issued September 5, 2019); *B.H.*, Docket No. 13-1955 (issued January 29, 2014).

¹¹ *R.R.*, Docket No. 18-0032 (issued May 3, 2018); *E.R.*, Docket No. 18-0084 (issued July 27, 2018).

Therefore, the Board finds that OWCP has not met its burden of proof to establish that the declared overpayment of compensation in the amount of \$6,027.56 actually occurred.¹² Accordingly,

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

Issued: May 22, 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

¹² *J.A.*, Docket No. 18-0259 (issued August 5, 2019).