United States Department of Labor
Employees' Compensation Appeals Board

A.D., Appellant	)	
	)	**Docket No. 26-0690**
and	)	**Issued: October 28, 2026**
U.S. POSTAL SERVICE, SARATOGA SPRINGS POST OFFICE, Saratoga Springs, NY, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On July 17, 2026, appellant filed a timely appeal from a June 25, 2026 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of this case.

ISSUES

The issues are: (1) whether appellant received an overpayment of compensation in the amount of $151,542.92 (remaining balance of $11,992.04) for the period December 1, 2017 through March 21, 2026, for which she was without fault, because she 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 $333.11 from appellant's continuing FECA compensation payments, every 28 days.

[1] 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On August 19, 2011, appellant, then a 58-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on August 18, 2011 she injured her knee when she stepped out of her long-life vehicle onto uneven ground while in the performance of duty. She stopped work on August 19, 2011. OWCP initially accepted the claim for sprain of medial collateral ligament of left knee. It subsequently expanded the acceptance of the claim to include tear of medial meniscus of right knee and permanent aggravation of right knee arthritis. OWCP paid appellant wage-loss compensation on the supplemental rolls effective October 4, 2011, and on the periodic rolls effective October 21, 2012.

On a claim for compensation (Form CA-7) dated October 14, 2011, the employing establishment noted appellant's retirement system as the Federal Employees Retirement System (FERS).

On December 4, 2018, OWCP provided SSA with a FERS/SSA dual benefits form.

On January 17, 2019, SSA provided appellant's SSA age-related retirement benefits rates with and without FERS for the period December 2017 through December 2018. Beginning December 2017, the SSA rate with federal service was $1,250.30 and without federal service was $36.40; and beginning December 2018, the SSA rate with federal service was $1,285.20 and without federal service was $37.30.

On a FERS offset overpayment calculation worksheet dated January 28, 2019, OWCP calculated a total overpayment of $16,087.84. It explained that for the period December 1, 2017 through November 30, 2018 appellant had received an overpayment of $14,606.82; and for the period December 1, 2018 through January 5, 2019 appellant had received an overpayment of $1,481.02.

Beginning January 30, 2019, OWCP adjusted appellant's net wage-loss compensation amount to $1,720.87 per 28-day pay period to reflect the offset of her SSA age-related retirement benefits attributable to her federal service.

In a notice dated January 30, 2019, OWCP advised appellant of its preliminary determination that she had received a $16,087.84 overpayment of compensation for the period December 1, 2017 through January 5, 2019 because she concurrently received FECA wage-loss compensation and SSA age-related retirement benefits without an appropriate offset. It further advised her of its preliminary determination that she was without fault in the creation of the overpayment. OWCP requested that appellant submit a completed overpayment recovery questionnaire (Form OWCP-20) and supporting financial documentation. Additionally, it provided an overpayment action request form and 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 prerecoupment hearing.

On February 18, 2019, appellant requested a decision based on the written evidence. She also requested waiver of recovery of the overpayment. Appellant submitted a completed Form OWCP-20 and some supporting financial documentation.

By decision dated March 4, 2019, OWCP finalized the preliminary overpayment determination that appellant had received an overpayment of compensation in the amount of $16,087.84 for the period December 1, 2017 through January 5, 2019 because she concurrently received FECA wage-loss compensation and SSA age-related retirement benefits, without an appropriate offset. 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 by deducting $503.69 from appellant's continuing compensation payments, every 28 days.

On March 9 and 10, 2026, appellant informed OWCP that SSA retirement payments were not properly deducted from her compensation payments. OWCP advised her that a FERS offset must be made and that a review would be conducted to determine whether she had received an overpayment of compensation.

On March 18, 2026, OWCP informed appellant that she had been sent a copy of the 2019 overpayment decision, that her prior overpayment had been paid in full, and that no overpayment existed currently.

On March 30, 2026, OWCP provided SSA with a FERS/SSA dual benefits form.

On April 4, 2026, SSA provided appellant's SSA age-related retirement benefits rates with and without FERS for the period December 2017 through December 2025. Beginning December 2017, the SSA rate with federal service was $1,250.30 and without federal service was $36.40; beginning November 2018, the SSA rate with federal service was $1,386.50 and without federal service was $36.40; beginning December 2018, the SSA rate with federal service was $1,425.30 and without federal service was $37.30; beginning December 2019, the SSA rate with federal service was $1,448.10 and without federal service was $37.90; beginning December 2020, the SSA rate with federal service was $1,466.90 and without federal service was $38.40; beginning December 2021, the SSA rate with federal service was $1,553.40 and without federal service was $40.60; beginning December 2022, the SSA rate with federal service was $1,668.50 and without federal service was $44.10; beginning December 2023, the SSA rate with federal service was $1,742.50 and without federal service was $45.50; beginning December 2024, the SSA rate with federal service was $1,786.00 and without federal service was $46.60; and beginning December 2025, the SSA rate with federal service was $1,836.00 and without federal service was $47.80.

On a FERS offset overpayment calculation worksheet dated April 16, 2026, OWCP calculated a total overpayment of $151,542.92. It found that during the period December 1, 2017 through October 31, 2018 appellant had received an overpayment of $13,406.22; from November 1, 2018 through January 5, 2019 appellant had received an overpayment of $2,937.59; from January 6 through November 30, 2019 appellant had received an overpayment of $15,054.45; from December 1, 2019 through November 30, 2020 appellant had received an overpayment of $17,015.34; from December 1, 2020 through November 30, 2021 appellant had received an overpayment of $17,189.15; from December 1, 2021 through November 30, 2022 appellant had received an overpayment of $18,203.46; from December 1, 2022 through November 30, 2023 appellant had received an overpayment of $19.787.04; from December 1, 2023 through November 30, 2024 appellant had received an overpayment of $20,475.87; from December 1, 2024 through November 30, 2025 appellant had received an overpayment of

$20,930.14; and from December 1, 2025 through March 21, 2026 appellant had received an overpayment of $6,543.65. OWCP subtracted the prior offset of appellant's FECA wage-loss compensation in the amount of $123,277.59 for the period December 1, 2017 through March 21, 2026, and her prior overpayment deductions of $16,273.29 for the prior overpayment, covering the period December 1, 2017 through January 5, 2019, and noted that the remaining balance of the overpayment was $11,992.04.

Beginning March 22, 2026, OWCP adjusted appellant's net wage-loss compensation to $2,336.75 per 28-day pay period to reflect the offset of her SSA age-related retirement benefits attributable to her federal service.

By notice dated April 20, 2026, OWCP advised appellant of its preliminary determination that she had received an overpayment of compensation in the amount of $151,542.92 for the period December 1, 2017 through March 21, 2026 because she concurrently received FECA wage-loss compensation and SSA age-related retirement benefits, without an appropriate offset. It set forth its calculation of the overpayment of compensation and advised that, after considering offset amounts and applied repayments, the remaining balance of the overpayment was $11,992.04. OWCP further advised appellant of its preliminary determination that she was without fault in the creation of the overpayment. It requested that she complete an overpayment action request form and an overpayment recovery questionnaire (Form OWCP-20) and submit supporting financial documentation including tax returns, bank account statements, bills, cancelled checks, pay slips, and other records which supported income and expenses listed. Additionally, OWCP notified appellant that she could request a final decision based on the written evidence or a prerecoupment hearing within 30 days.

On April 23, 2026, appellant asserted that she had many expenses relating to herself and her dependent daughter. She further indicated that her husband was a logger, and she did not know how to calculate his income.

On May 11, 2026, OWCP advised appellant that she had until June 20, 2026 to submit financial documentation regarding her monthly income and expenses.

On June 8, 2026, appellant requested a decision based on the written evidence. She also requested waiver of recovery of the overpayment. In a partially completed Form OWCP-20, appellant reported $2,000.00 in a checking account. In an accompanying statement, she reported total monthly expenses for herself and her dependent daughter in the amount of $4,424.56. Appellant submitted only some supporting financial documentation.

In a letter dated June 24, 2026, OWCP advised appellant of the deficiencies in the Form OWCP-20 she had submitted. It again requested that she complete a Form OWCP-20 and submit supporting financial documentation.

By decision dated June 25, 2026, OWCP finalized the preliminary overpayment determination that appellant had received an overpayment of compensation in the amount of $151,542.92 for the period December 1, 2017 through March 21, 2026 because she concurrently received FECA wage-loss compensation and SSA age-related retirement benefits, without an appropriate offset. It noted that an SSA offset was properly made to appellant's FECA wage-loss compensation in the amount of $123,277.59 for the period December 1, 2017 through

March 21, 2026 and her prior overpayment deductions of $16,273.29 had been received for the overpayment for the period December 1, 2017 through January 5, 2019, with a remaining balance of $11,992.04. OWCP determined that appellant was without fault in the creation of the overpayment but, denied waiver of recovery of the overpayment. It required recovery of the overpayment by deducting $333.11 from her continuing compensation payments, every 28 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 duty.[2] However, section 8116 also 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.[3] When an overpayment has been made to an individual 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 the individual is entitled.[4]

Section 10.421(d) of OWCP's implementing regulations requires that it reduce the amount of compensation by the amount of any SSA benefits that are attributable to the employee's federal service.[5] OWCP's procedures provide 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.[6]

ANALYSIS -- ISSUE 1

The Board finds that appellant received an overpayment of compensation in the amount of $151,542.92 (remaining balance of $11,992.04), for the period December 1, 2017 through March 21, 2026, for which she was without fault, because she concurrently received FECA wage-loss compensation and SSA age-related retirement benefits, without an appropriate offset.

The case record establishes that OWCP paid appellant FECA wage-loss compensation for the period December 1, 2017 through March 21, 2026. Appellant also received SSA age-related retirement benefits attributable to her federal service for the same period. However, appropriate offsets were not made. As explained above, a claimant cannot receive both compensation for wage loss under FECA and SSA age-related retirement benefits attributable to federal service for

[2] *Id.* at § 8102(a).

[3] *Id.* at § 8116.

[4] *Id.* at § 8129(a).

[5] 20 C.F.R. § 10.421(d); *see B.W.,* Docket No. 21-0277 (issued May 6, 2022); *R.R.*, Docket No. 19-0104 (issued March 9, 2020); *T.B.*, Docket No. 18-1449 (issued March 19, 2019); *L.J.,* 59 ECAB 264 (2007). *See also N.B.*, Docket No. 18-0795 (issued January 4, 2019).

[6] Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Final Overpayment Determinations*, Chapter 6.200.1h (version 1.2, issued May 4, 2026). *See also N.B.*, id.

the same period, without an appropriate offset.[7] Accordingly, the Board finds that fact of overpayment has been established.

With regard to the amount of the overpayment, OWCP explained that an SSA offset was properly made to appellant's FECA wage-loss compensation in the amount of $123,277.59 for the period December 1, 2017 through March 21, 2026 her prior overpayment deductions of $16,273.29 had been received for the overpayment for the period December 1, 2017 through January 5, 2019, with a remaining balance of $11,992.04. The Board has reviewed OWCP's calculation of dual benefits received by appellant for the period December 1, 2017 through March 21, 2026, and finds that an overpayment of compensation in the amount of $151,542.92 (remaining balance of $11,992.04) was created.[8]

LEGAL PRECEDENT -- ISSUE 2

Section 8129 of FECA provides that adjustment or recovery by the United States may not be made when incorrect payment has been made to an individual who is without fault and when adjustment or recovery would defeat the purpose of FECA or would be against equity and good conscience.[9] 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.[10]

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, also, if the beneficiary's assets do not exceed a specified amount as determined by OWCP from data provided by the Bureau of Labor Statistics.[11]

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

[7] *Id.*

[8] *See L.S.,* Docket No. 25-0327 (issued April 14, 2025); *C.B.,* Docket No. 25-0275 (issued March 24, 2025); *J.A.,* Docket No. 23-0686 (issued November 9, 2023); *J.H.,* Docket No. 22-1375 (issued May 16, 2023); *P.M.,* Docket No. 21-0915 (issued December 14, 2021); *K.W.,* Docket No. 20-1169 (issued April 7, 2021); *W.C.*, Docket No. 20-1241 (issued February 9, 2021).

[9] 5 U.S.C. § 8129(b).

[10] 20 C.F.R. § 10.436.

[11] *Id.*; OWCP's procedures provide that a claimant is deemed to need substantially all of his or her current net income to meet current ordinary and necessary living expenses if monthly income does not exceed monthly expenses by more than $50.00. Its procedures further provide that 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. *Supra* note 6 at Chapter 6.400.4a(2) and (3) (version 1.2 issued May 4, 2026).

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.[12]

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.[13] 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.[14] Failure to submit the requested information within 30 days of the request shall result in a denial of waiver of recovery of the overpayment, and no further request for waiver shall be considered until the requested information is furnished.[15]

ANALYSIS -- ISSUE 2

The Board finds that this case is not in posture for decision regarding waiver of recovery of the overpayment.

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.[16]

On April 20, 2026, OWCP requested that appellant complete a Form OWCP-20 and submit supporting financial documentation. On June 8, 2026, appellant submitted a partially completed Form OWCP-20 and only some supporting financial documentation. In a letter dated June 24, 2026, OWCP advised appellant of the deficiencies in her Form OWCP-20. It again requested that she complete a Form OWCP-20 and submit supporting financial documentation. Just one day later, on June 25, 2026, however, OWCP issued its final overpayment determination, 2026 denying appellant's request for waiver of recovery of the overpayment without allowing her a reasonable opportunity to provide the information and documents requested in its June 24, 2026 letter.

The Board thus finds that, as OWCP failed to afford appellant a reasonable period of time to submit the requested information, it abused its discretion in denying waiver of recovery of the overpayment.[17]

[12] 20 C.F.R. § 10.437; *see E.H.,* Docket No. 18-1009 (issued January 29, 2019).

[13] *Id.* at 10.438(a).

[14] *Id.*; *M.S.,* Docket No. 18-0740 (issued February 4, 2019).

[15] *Id.* at § 10.438(b); *see G.S.,* Docket No. 20-1580 (issued March 19, 2021).

[16] *See S.T.,* Docket No. 25-0168 (issued March 13, 2025); *J.R.,* Docket No. 17-0181 (issued August 12, 2020); *L.S.,* 59 ECAB 350 (2008).

[17] *S.M.,* Docket No. 07-1355 (issued April 2, 2008).

CONCLUSION

The Board finds that appellant received an overpayment of compensation in the amount of $151,542.92 (remaining balance of $11,992.04) for the period December 1, 2017 through March 21, 2026, for which she was without fault, because she concurrently received FECA wage-loss compensation and SSA age-related retirement benefits, without an appropriate offset. The Board further finds, however, that the case is not in posture for decision regarding waiver of recovery of the overpayment.[18]

ORDER

IT IS HEREBY ORDERED THAT the June 25, 2026 decision of the Office of Workers' Compensation Programs is affirmed in part and set aside in part. The case is remanded for further proceedings consistent with this decision of the Board.

Issued: October 28, 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

[18] In light of the Board's disposition of Issue 2, Issue 3 is rendered moot.