United States Department of Labor
Employees' Compensation Appeals Board

K.P., Appellant	)	
	)	**Docket No. 26-0695**
and	)	**Issued: October 30, 2026**
	)	
U.S. POSTAL SERVICE, SOPER POST OFFICE, Soper, OK, 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 20, 2026 appellant filed a timely appeal from a June 10, 2026 merit decision of the Office of Workers' Compensation Programs (OWCP).[1] Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of this case.[3]

[1] Appellant submitted a timely request for oral argument before the Board. 20 C.F.R. § 501.5(b). Pursuant to the Board's *Rules of Procedure*, oral argument may be held in the discretion of the Board. 20 C.F.R. § 501.5(a). Appellant alleged that her financial information had not been fully evaluated and she did not have sufficient funds to repay the overpayment. The Board, in exercising its discretion, denies appellant's request for oral argument because the arguments on appeal can adequately be addressed in a decision based on a review of the case record. Oral argument in this appeal would further delay issuance of a Board decision and not serve a useful purpose. As such, the oral argument request is denied, and this decision is based on the case record as submitted to the Board.

[2] 5 U.S.C. § 8101 *et seq.*

[3] Following the issuance of the June 10, 2026 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

ISSUES

The issues are: (1) whether appellant received an overpayment of compensation in the amount of $25,377.54 for the period June 7, 2022 through November 1, 2025, for which she was without fault, because she improperly received wage-loss compensation at the augmented rate, to which she was not entitled; (2) whether OWCP properly denied waiver of recovery of the overpayment; and (3) whether OWCP properly required recovery of the overpayment by deducting $182.15 from appellant's continuing compensation payments, every 28 days.

FACTUAL HISTORY

On March 29, 2021 appellant, then a 53-year-old postmaster, filed a traumatic injury claim (Form CA-1) alleging that on February 26, 2021 she injured her left ankle, head, left knee, and back while in the performance of duty.[4] She noted that she passed out and fell inside a bathroom doorway at the employing establishment. Appellant further noted that she previously had COVID-19. She stopped work on February 26, 2021, and returned to work on March 15, 2021. By decision dated April 6, 2021, OWCP accepted appellant's claim for COVID-19. It subsequently expanded the acceptance of her claim to include major depressive disorder, recurrent, unspecified; other symptoms and signs involving cognitive functions and awareness; post COVID-19 condition, unspecified; lower back strain; and thorax strain. OWCP paid appellant wage-loss compensation on the supplemental and periodic rolls commencing April 22, 2021, and on the periodic rolls as of February 22, 2022.

On a financial disclosure statement (Form EN-1032) dated June 22, 2022, appellant reported that she was married, but her spouse no longer lived with her as of June 7, 2022. She indicated that she did not make regular payments for her spouse's support and that her husband stopped being a dependent on June 7, 2022 due to their divorce.

On July 13, 2022 appellant again informed OWCP that her husband was no longer living with her. She further informed OWCP that she was in the middle of a divorce, and her husband was still covered under her health benefits plan. Appellant asserted that OWCP advised her that her husband was still a dependent until he was removed from her health benefits plan, and she would still receive compensation at the 3/4 (75 percent) augmented rate. OWCP also advised her to upload a copy of her final divorce decree so that her compensation could be reduced.

On August 20, 2022 OWCP received appellant's final divorce decree dated July 28, 2022, which indicated that the trial was held on June 7, 2022. The decree addressed the division of separate and marital property and marital debts and assets.

[4] OWCP assigned the present claim OWCP File No. xxxxxx355. Appellant subsequently filed a traumatic injury claim under OWCP File No. xxxxxx973, alleging that on March 24, 2021 she experienced pain and swelling in her left ankle, experienced pain in her left knee, sustained a bruise on her left knee, and sustained a knot on the back of her head and right portion of her back when she passed out and fell in a restroom at the employing establishment due to lingering post-COVID-19 symptoms. OWCP has administratively combined OWCP File Nos. xxxxxx973 and xxxxxxx355, with the latter serving as the master file.

On a Form EN-1032 dated June 9, 2023, appellant indicated that, in the prior 15 months, she was married and her spouse lived with her. She also listed her 15-year-old niece who lived with her on a full-time basis as a dependent.

OWCP subsequently received appellant's Health Benefits Election Form (Standard Form (SF) 2809) dated December 10, 2023, wherein she changed her health benefits plan from "self and family" to "self only," effective January 28, 2024.

On EN-1032 forms dated July 14, 2024 and July 2, 2025, appellant indicated that she was not married, but her ex-spouse still lived with her because he had a serious illness and could not work. She again listed her niece and, also a minor grandson who lived with her as dependents.

In a notice dated December 10, 2025, OWCP advised appellant of its preliminary determination that she had received a $25,337.54 overpayment of compensation for the period June 7, 2022 through November 1, 2025 because she received compensation at the augmented 3/4 rate instead of the basic 2/3 (66 2/3 percent) rate when she had no eligible dependents. It explained that, during the relevant period, she was not entitled to receive wage-loss compensation at the augmented rate, as her husband was no longer an eligible dependent as of June 7, 2022, and she did not have any other eligible dependents. OWCP calculated the overpayment by subtracting the total net compensation of $177,820.13 that appellant was entitled to receive for this period from the net compensation of $203,197.67 that she received, which resulted in an overpayment of compensation in the amount of $25,337.54. It further advised appellant of its preliminary determination that she was without fault in the creation of the overpayment. OWCP requested that she submit a completed overpayment recovery questionnaire (Form OWCP-20) and supporting financial documentation. Additionally, it provided 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.

In an overpayment action request form dated January 5, 2026, received on January 6, 2026, appellant requested a prerecoupment hearing before a representative of OWCP's Branch of Hearings and Review. She also requested waiver of recovery of the overpayment. Appellant noted that she had submitted her divorce decree. She contended that she was advised by an OWCP claims examiner that, so long as she paid for her husband's medical insurance, she was entitled to receive compensation at the 3/4 rate. Appellant further contended that he had a serious illness and she still financially supported him.

Appellant submitted a Form OWCP-20 signed on January 5, 2026,[5] in which she reported total monthly income of $4,728.40; total monthly expenses of $4,283.00; and total assets of $512.00.

A prerecoupment hearing was held on March 26, 2026. During the hearing, appellant reiterated that her ex-husband lived with her and she financially supported him because he was unable to work due to his serious illness. She further testified that neither her niece nor grandson lived with her.

[5] It appears that appellant inadvertently dated her Form OWCP-20 January 5, 2025 rather than January 5, 2026.

Appellant subsequently submitted financial documentation including statements for her mortgage, life insurance, utilities**,** streaming services, and car payments.

By decision dated June 10, 2026, OWCP's hearing representative finalized the preliminary overpayment determination, finding that appellant had received an overpayment of compensation in the amount of $25,337.54 for the period June 7, 2022 through November 1, 2025 because she improperly received augmented compensation without having eligible dependents. The hearing representative determined that she was without fault in the creation of the overpayment but denied waiver of recovery of the overpayment. The hearing representative required recovery of the overpayment by deducting $182.15 from her continuing compensation payments, every 28 days.

LEGAL PRECEDENT -- ISSUE 1

FECA provides that the United States shall pay compensation for the disability or death of an employee resulting from a personal injury sustained while in the performance of duty.[6] If the disability is total, the United States shall pay the employee during the period of total disability the basic compensation rate of 66 2/3 percent of his or her monthly pay. A disabled employee is entitled to an augmented compensation rate of 75 percent if he or she has one or more dependents.[7] A husband or wife is considered an employee's dependent if he or she is a member of the same household, is receiving regular contributions from the employee for his or her support, or if the employee has been ordered by a court to contribute to his or her support.[8] Under section 8110 of FECA,[9] a former spouse does not come within the meaning of the term "husband."[10]

Under 5 U.S.C. § 8110 a dependent also includes an unmarried child, while living with the employee or receiving regular contributions from the employee toward his support, and who is either under 18 years of age or incapable of self-support because of physical or mental disability.[11] Only individuals specifically defined as a child under section 8110 would entitle an employee to augmented compensation for such a dependent. The term child in section 8101(9) of FECA provides for three specific relationships in addition to the biological relation between a parent and his or her natural child: stepchildren, adopted children, and posthumous children. A grandchild

[6] 5 U.S.C. § 8102(a).

[7] *C.P.,* Docket No. 22-1248 (issued June 14, 2024); *E.B.,* Docket No. 19-1571 (issued December 31, 2020); *R.G.,* Docket No. 18-1251 (issued November 26, 2019); *O.R.,* 59 ECAB 432 (2008); *id.* at §§ 8105(a) and 8110(b).

[8] *Supra* note 6 at § 8110(a)(2).

[9] *Id*. at § 8110(a)(1).

[10] *J.B*., Docket No. 22-1027 (issued November 16, 2023); *Raymond Kaufman*, Docket No. 04-0104 (issued March 2, 2004); *Blaine E. Bedeger*, 48 ECAB 418 (1997); *Linda F. Green*, 39 ECAB (1988); *William S. Cappeller,* 28 ECAB 262 (1977).

[11] *Supra* note 6 at § 8110(3).

is not specifically recognized as an eligible dependent for purposes of augmented compensation.[12] A niece or legal ward is also not included among the definitions of a child pursuant to FECA.[13]

If a claimant received compensation at the augmented rate during a period when he or she did not have an eligible dependent, the difference between the compensation that was disbursed at the 75 percent augmented rate and the compensation that should have been disbursed at the 66 2/3 percent basic rate constitutes an overpayment of compensation.[14]

ANALYSIS -- ISSUE 1

The Board finds that appellant received an overpayment of compensation in the amount of $25,377.54 for the period June 7, 2022 through November 1, 2025, for which she was without fault, because she improperly received wage-loss compensation at the augmented rate, to which she was not entitled.

The evidence of record reflects that on the Form EN-1032 dated June 22, 2022, appellant indicated that she was married, but her spouse no longer lived with her, and he stopped being a dependent as of June 7, 2022. As explained above, a husband or wife is considered an employee's dependent if he or she is a member of the same household, is receiving regular contributions from the employee for his or her support, or if the employee has been ordered by a court to contribute to his or her support. Under section 8110 of FECA, a former spouse does not come within the meaning of the term "husband."[15] Thus, appellant's former husband was no longer a dependent spouse as defined by FECA as of June 7, 2022.

Additionally, while appellant listed her minor niece and minor grandson as dependents, they were not appellant's natural child, stepchild, adopted child, or posthumous child. As previously noted, a grandchild is not specifically recognized as an eligible dependent for purposes of augmented compensation.[16] A niece or legal ward is also not included among the definitions of a child pursuant to FECA.[17]

[12] *C.P.*, Docket No. 13-1058 (issued October 21, 2013); *P.D.,* Docket No. 9-1007 (issued February 17, 2010).

[13] *See Louis L. Jackson, Sr.,* 39 ECAB 423 (1988), citing *Aretha Hudson*, 28 ECAB 169, 170 (1977) (where the Board held that appellant's legal guardianship and support of her two minor nephews did not qualify the children as dependents.

[14] *R.G., supra* note 7; *Ralph P. Beachum, Sr.,* 55 ECAB 442 (2004).

[15] *Supra* notes 8-10.

[16] *C.P.*, Docket No. 13-1058 (issued October 21, 2013); *P.D.,* Docket No. 9-1007 (issued February 17, 2010).

[17] *See Louis L. Jackson, Sr.,* 39 ECAB 423 (1988), citing *Aretha Hudson*, 28 ECAB 169, 170 (1977) (where the Board held that appellant's legal guardianship and support of her two minor nephews did not qualify the children as dependents.

The Board finds that as OWCP paid appellant at the augmented rate for the period June 7, 2022 through November 1, 2025 when she no longer had an eligible dependent, fact of overpayment is established.[18]

With regard to the amount of the overpayment, OWCP provided its overpayment calculations based on its payments of compensation to appellant at the augmented rate for the period June 7, 2022 through November 1, 2025 and determined that she received an overpayment in the amount of $25,377.54. The Board has reviewed OWCP's calculations and finds that she received an overpayment of compensation in the amount of $25,377.54.[19]

LEGAL PRECEDENT -- ISSUE 2

Section 8129 of FECA provides that an overpayment must be recovered unless 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.[20]

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.[21] 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 $50.00.[22] 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.[23] 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.[24]

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

[18] *See C.C.,* Docket No. 26-0404 (issued July 2, 2026); *J.F.,* Docket No. 23-0800 (issued April 10, 2025).

[19] *Id.*

[20] 5 U.S.C. § 8129.

[21] 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) (version 1.2, issued May 4, 2026).

[22] *Id.* at Chapter 6.400.4a(3); *N.J.,* Docket No. 19-1170 (issued January 10, 2020); *M.A.,* Docket No. 18-1666 (issued April 26, 2019).

[23] *See id.* at Chapter 6.400.4a(2).

[24] *Id.* at Chapter 6.400.4b(3).

determine the repayment schedule, if necessary.[25] 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.[26]

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 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.[27]

The Board finds that appellant has not established that recovery of the overpayment would defeat the purpose of FECA because she has not shown both that she needs substantially all of her current income to meet ordinary and necessary living expenses and that her assets do not exceed the allowable resource base. As noted above, 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 $50.00.[28] Appellant submitted a Form OWCP-20 signed on January 5, 2026,[29] in which she reported total monthly income of $4,728.40 and total monthly expenses of $4,283.00. As appellant's reported income exceeds her reported expenses by more than $50.00, she has not established that recovery of the overpayment would defeat the purpose of FECA. Because she has not met the first prong of the two-prong test of whether recovery of the overpayment would defeat the purpose of FECA, it is unnecessary for OWCP to consider the second prong of the test, *i.e.*, whether her assets exceed the allowable resource base.[30]

Additionally, the evidence does not demonstrate that recovery of the overpayment would be against equity and good conscience. Appellant has not submitted evidence to substantiate that she would experience severe financial hardship in attempting to repay the debt, or that in reliance on such payment she gave up a valuable right or changed her position for the worse.[31]

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.[32]

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[25] *Supra* note 21 at § 10.438(a); *P.N.,* Docket No. 20-1159 (issued April 20, 2021); *Ralph P. Beachum, Sr.,* 55 ECAB 442 (2004).

[26] *Id.* at 10.438(b).

[27] 5 U.S.C. § 8129.

[28] *Supra* notes 21 and 22. *See also R.E.,* Docket No. 23-0826 (issued January 12, 2024).

[29] It appears that appellant inadvertently dated her Form OWCP-20 January 5, 2025 rather than January 5, 2026.

[30] *See M.B.,* Docket No. 23-0775 (issued March 11, 2024); *J.T.,* Docket No. 21-0696 (issued August 7, 2023).

[31] *Supra* note 25.

[32] *Supra* note 20; *P.N., supra* note 25; *Ralph P. Beachum, Sr.,* 55 ECAB 442 (2004).

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.[33]

Section 10.441 of OWCP's regulations[34] 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.[35]

ANALYSIS -- ISSUE 3

The Board finds that OWCP properly required recovery of the overpayment by deducting $182.15 from appellant's continuing compensation payments, every 28 days.

OWCP gave due regard to the financial information submitted, as well as the factors set forth in 20 C.F.R. § 10.441 and found that this method of recovery would minimize resulting hardship.[36] Therefore, the Board finds that it properly required recovery of the overpayment by deducting $182.15 per month from appellant's continuing compensation benefits, every 28 days.

CONCLUSION

The Board finds that appellant received an overpayment of compensation in the amount of $25,377.54 for the period June 7, 2022 through November 1, 2025, for which she was without fault, because she improperly received wage-loss compensation at the augmented rate, to which she was not entitled. The Board further finds that OWCP properly denied waiver of recovery of the overpayment and required recovery of the overpayment by deducting $182.15 from appellant's continuing compensation payments, every 28 days.

[33] 20 C.F.R. § 10.441; *see M.P.,* Docket No. 18-0902 (issued October 16, 2018).

[34] *Id.* at § 10.441(a).

[35] *Id.*; *see C.M.,* Docket No. 19-1451 (issued March 4, 2020).

[36] *M.S.,* Docket No. 20-0068 (issued May 14, 2021); *M.B.,* Docket No. 20-1578 (issued March 25, 2021).

ORDER

IT IS HEREBY ORDERED THAT the June 10, 2026 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 30, 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