United States Department of Labor
Employees' Compensation Appeals Board

C.T., widow of A.T., Appellant	)	
and	)	**Docket No. 24-0506**
	)	**Issued: September 23, 2026**
DEPARTMENT OF THE TREASURY, BUREAU OF ENGRAVING AND PRINTING, Washington DC, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On April 16, 2024 appellant filed a timely appeal from a March 21, 2024 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 OWCP properly determined that appellant received an overpayment of compensation in the amount of $29,557.73 for the period August 9, 2000 through October 7, 2023, for which she was without fault, because she concurrently received FECA survivor benefits and Social Security Administration (SSA) survivor benefits, without an appropriate offset; (2) whether OWCP properly denied waiver of recovery of the overpayment;

[1] 5 U.S.C. § 8101 *et seq.*

and (3) whether OWCP properly required recovery of the overpayment by deducting $869.35 from appellant's continuing compensation payments every 28 days.

FACTUAL HISTORY

This case has previously been before the Board on different issues. The facts and circumstances of the case as set forth in the Board's prior decisions are incorporated herein by reference.[2] The relevant facts are as follows.

On October 29, 2000 appellant, the employee's widow, filed a claim for compensation by widow, widower, and/or children (Form CA-5) alleging that the employee's death on August 8, 2000 was causally related to his accepted employment injury.[3] OWCP accepted the claim and paid appellant survivor benefits effective August 8, 2000.

On February 7, 2002 appellant's then-counsel advised that she received SSA benefits due to "her own disability which is attributable to her own employment." He noted that she had become disabled on June 30, 1998, prior to her husband's death on August 8, 2000.

In an election form dated April 5, 2002, appellant elected benefits under FECA effective August 8, 2000. She indicated that she had not received a lump-sum annuity from OPM either as an alternative to an annuity under the Civil Service Retirement System (CSRS) or as part of death benefits under the Federal Employees Retirement System (FERS).

OWCP, on April 5, 2002, advised OPM that appellant had requested benefits under FECA in lieu of OPM. It requested verification of whether she had received $42,000.00 from OPM and indicated that upon receipt of verification it would refund OPM and issue the balance to appellant for the retroactive period.

On June 28, 2002 SSA completed a FERS/SSA dual benefits calculation form and reported that appellant had received a lump-sum death payment with no OWCP offset and that she was not entitled to further SSA benefits.

In a claim for continuance of compensation under FECA (Form CA-12), appellant advised that the employee's retirement plan was FERS and that she received SSA, and a pension based on the employee's death.

On January 24, 2023 OWCP sent a (FERS)/SSA dual benefits calculation form to SSA for completion.

On July 6, 2023 SSA completed the FERS/SSA dual benefits calculation form and provided appellant's SSA benefits as a widow of the employee from August 2000 through December 2022. It indicated that beginning August 2000, the SSA rate with FERS was $228.50 and without FERS was $159.20; beginning December 2000, the SSA rate with FERS was $236.50 and without FERS

[2] Docket No. 07-1845 (issued December 7, 2007); Docket No. 01-1921 (issued December 20. 2001).

[3] The employee, a maintenance engineer, passed away when he fell from the employing establishment roof while in the performance of duty. OWCP assigned OWCP File No. xxxxxx072.

was $164.80; beginning July 2001, the SSA rate with FERS was $235.70 and without FERS was $163.90; beginning December 2001, the SSA rate with FERS was $241.80 and without FERS was $168.20; beginning December 2002, the SSA rate with FERS was $245.30 and without FERS was $170.50; beginning December 2003, the SSA rate with FERS was $250.50 and without FERS was $174.20; beginning December 2004, the SSA rate with FERS was $257.30 and without FERS was $178.90; beginning December 2005, the SSA rate with FERS was $267.80 and without FERS was $186.20; beginning December 2006, the SSA rate with FERS was $276.50 and without FERS was $192.30; beginning December 2007, the SSA rate with FERS was $282.80 and without FERS was $196.70; beginning December 2008 through November 2011, the SSA rate with FERS was $299.40 and without FERS was $208.20; beginning December 2011, the SSA rate with FERS was $310.20 and without FERS was $215.70; beginning December 2012, the SSA rate with FERS was $315.50 and without FERS was $219.30; beginning December 2013, the SSA rate with FERS was $320.20 and without FERS was $222.60; beginning December 2014 through July 2016, the SSA rate with FERS was $325.70 and without FERS was $226.40; beginning August 2016, the SSA rate with FERS was $455.60 and without FERS was $316.70; beginning December 2016, the SSA rate with FERS was $457.00 and without FERS was $317.70; beginning December 2017, the SSA rate with FERS was $466.20 and without FERS was $324.10; beginning December 2018, the SSA rate with FERS was $479.30 and without FERS was $333.20; beginning December 2019, the SSA rate with FERS was $487.00 and without FERS was $338.60; beginning December 2020, the SSA rate with FERS was $493.30 and without FERS was $343.00; beginning December 2021, the SSA rate with FERS was $522.40 and without FERS was $363.20; and beginning December 2022, the SSA rate with FERS was $567.90 and without FERS was $394.80.

On August 10, 2023 OWCP requested clarification from SSA as appellant had received Social Security Disability Insurance (SSDI) since 1998 based on her federal employment. It noted that the SSA offset form dated June 28, 2002 had reported that she had received a lump-sum death payment and was not entitled to further SSA benefits.

SSA responded on September 15, 2023 and reported that the July 6, 2023 FERS/SSA dual benefits calculation form was correct. It advised that there was an error in the prior calculation of dual entitlement rates.

On October 16, 2023 OWCP adjusted appellant's compensation for the SSA offset. It found that with the SSA offset, she was entitled to net compensation of $4,005.14 every 28 days.

On October 25, 2023 OWCP requested that OPM specify the employee's retirement system and requested a notification of personnel action (Standard Form (SF) 50). In a response dated November 14, 2023, OPM indicated that the employee was covered under FERS.

On December 19, 2023 OWCP prepared a FERS offset calculation worksheet which explained its calculation of appellant's SSA offset overpayment from August 9, 2000 through October 7, 2023 and computed a total overpayment in the amount of $29,557.73. It found that, for the period August 9 through November 30, 2000, appellant received an overpayment of $260.45; for the period December 1, 2000 through June 30, 2001, she received an overpayment of $501.11; for the period July 1, 2001 through November 30, 2001, she received an overpayment of $362.16; for the period December 1, 2001 through November 30, 2002, she received an overpayment of $885.63; for the period December 1, 2002 through November 30, 2003, she received an

overpayment of $900.07; for the period December 1, 2003 through November 30, 2004, she received an overpayment of $920.63; for the period December 1, 2004 through November 30, 2005, she received an overpayment of $943.38; for the period December 1, 2005 through November 30, 2006, she received an overpayment of $981.89; for the period December 1, 2006 through November 30, 2007, she received an overpayment of $1,013.18; for the period December 1, 2007 through November 30, 2008, she received an overpayment of $1,038.88; for the period December 1, 2008 through November 30, 2009, she received an overpayment of $1,097.41; for the period December 1, 2009 through November 30, 2010, she received an overpayment of $1,097.41; for the period December 1, 2010 through November 30, 2011, she received an overpayment of $1,097.41; for the period December 1, 2011 through November 30, 2012, she received an overpayment of $1,140.23; for the period December 1, 2012 through November 30, 2013, she received an overpayment of $1,157.57; for the period December 1, 2013 through November 30, 2014, she received an overpayment of $1,174.42; for the period December 1, 2014 through November 30, 2015, she received an overpayment of $1,194.87; for the period December 1, 2015 through July 31, 2016, she received an overpayment of $798.76; for the period August 1, 2016 through November 30, 2016, she received an overpayment of $558.65; for the period December 1, 2016 through November 30, 2017, she received an overpayment of $1,676.19; for the period December 1, 2017 through November 30, 2018, she received an overpayment of $1,709.88; for the period December 1, 2018 through November 30, 2019, she received an overpayment of $1,758.02; for the period December 1, 2019 through November 30, 2020, she received an overpayment of $1,790.58; for the period December 1, 2020 through November 30, 2021, she received an overpayment of $1,808.55; for the period December 1, 2021 through November 30, 2022, she received an overpayment of $1,915.65; and for the period December 1, 2022 through October 7, 2023, she received an overpayment of $1,774.75.

In a preliminary overpayment determination dated December 22, 2023, OWCP notified appellant of its preliminary finding that she had received an overpayment of compensation in the amount of $29,557.73 because her survivor benefits had not been reduced for the period August 9, 2000 through October 7, 2023 by the portion of SSA survivor benefits attributable to the employee's federal service. It determined that she was without fault in the creation of the overpayment. OWCP requested that appellant submit a completed overpayment recovery questionnaire (Form OWCP-20) to determine a reasonable payment method and advised her that she could request waiver of recovery of the overpayment. It further requested that she provide supporting financial documentation, including copies of income tax returns, bank account statements, bills and canceled checks, pay slips, and any other records supporting income and expenses. Additionally, OWCP 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 7, 2024, appellant requested that OWCP make a decision based on the written evidence. She disagreed that the overpayment had occurred and with the amount of the overpayment and requested waiver of recovery of the overpayment. Appellant noted that she had cognitive issues and was in therapy for depression and anxiety.

Appellant also submitted an OWCP-20 form on January 7, 2024 with supporting financial documentation. She reported her total monthly income as $7,132.92 and provided documentation

of total monthly expenses of $4,552.57.[4] Appellant listed liquid assets of $864.57. She provided supporting financial documentation of her monthly expenses including: her mortgage of $1,127.35; monthly credit cards payments; car payments; internet, telephone, and television services, sanitation; septic tank maintenance; heating oil; home insurance; automobile insurance and maintenance; solar loan payment; monthly loan payments; life insurance; dental costs; veterinary expenses and SiriusXM radio charges from 2022.

By decision dated March 21, 2024, OWCP finalized its preliminary determination that appellant received an overpayment of compensation in the amount of $29,557.73 for the period August 9, 2020 through October 7, 2023 because it failed to offset her compensation payments by the portion of her SSA survivor benefits that were attributable to the employee's federal service. OWCP denied waiver of recovery of the overpayment because the evidence of record did not establish that recovery of the overpayment would defeat the purpose of FECA or be against equity and good conscience based on the financial information provided. It found that appellant's monthly income was $7,084.91[5] and exceeded her allowable monthly expenses of $4,552.57 by $2,532.34. OWCP required recovery of the overpayment by deducting $869.35 from her continuing compensation payments every 28 days.

LEGAL PRECEDENT -- ISSUE 1

Section 8102(a) of FECA[6] 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.[7] 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.[8]

Section 10.421(d) of OWCP's implementing regulations provides that a beneficiary "may receive compensation under the FECA for either the death or disability of an employee concurrently with benefits under [SSA] on account of the age or death of such employee. However, this provision of the FECA also requires OWCP to reduce the amount of any such compensation by the amount of any [SSA] benefits that are attributable to the federal service of the employee."[9] 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 benefit earned as a federal employee

[4] Appellant listed her monthly expenses as $3,825.83 and requested that OWCP review the attached documentation. She did not provide documentation of her property tax or her health insurance expenses.

[5] OWCP adjusted her monthly income to reflect the reduction in her survivor's benefits due to the offset of SSA benefits.

[6] *Supra* note 1.

[7] 5 U.S.C. § 8102.

[8] *Id*. at § 8116.

[9] 20 C.F.R. § 10.421(d).

is part of the FERS retirement package, and the receipt of FECA benefits and federal retirement concurrently is a prohibited dual benefit.[10]

ANALYSIS -- ISSUE 1

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of $29,557.73 for the period August 9, 2000 through October 7, 2023, for which she was without fault.

The evidence of record indicates that, while appellant was receiving survivor benefits under FECA, she was concurrently receiving SSA survivor benefits based on the employee's federal service. A claimant cannot receive both compensation for survivor benefits concurrently under both FECA and SSA for the same period without an appropriate offset.[11] The information provided by SSA supports the receipt of dual benefits. Consequently, the fact of overpayment has been established.[12]

With regard to the amount of the overpayment, the Board has reviewed OWCP's calculations and concludes that it properly determined that appellant received dual benefits totaling $29,557.73 for this period. Thus, the Board finds that OWCP properly calculated that appellant was overpaid in the amount of $29,557.73.

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.[13]

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.[14] An individual is deemed to need substantially all of his or her current income to meet current ordinary and necessary living expenses

[10] FECA Bulletin No. 97-09 (issued February 3, 1997); *see also N.B.*, Docket No. 18-0795 (issued January 4, 2019).

[11] *Supra* note 8 at § 8116(d); *M.Y.,* Docket No. 18-0364 (issued August 16, 2018); *see N.R.*, Docket No. 12-1853 (issued June 10, 2013).

[12] *See M.S.*, Docket No. 20-0068 (issued May 14, 2021); *P.B.*, Docket No. 20-0862 (issued November 25, 2020); *R.C.*, Docket No. 19-0845 (issued February 3, 2020); *A.F.*, Docket No. 19-0054 (issued June 12, 2019).

[13] 5 U.S.C. § 8129.

[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).

if monthly income does not exceed monthly expenses by more than $50.00.[15] 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.[16] 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.[17]

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.[18] 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.[19]

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.[20]

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 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.[21] 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

[15] *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).

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

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

[18] *Supra* note 14. at § 10.438(a); *P.N.*, Docket No. 20-1159 (issued April 20, 2021); *Ralph P. Beachum, Sr.*, 55 ECAB 442 (2004).

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

[20] *Supra* note 13.

[21] *Supra* notes 14 and 15. *See also R.E.*, Docket No. 23-0826 (issued January 12, 2024).

unnecessary for OWCP to consider the second prong of the test, *i.e*., whether her assets exceed the allowable resource base.[22]

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.[23]

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.[24]

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.[25]

Section 10.441(a) of OWCP's regulations[26] provides in pertinent part:

> "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 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."[27]

ANALYSIS -- ISSUE 3

The Board finds that OWCP properly required recovery of the overpayment by deducting $869.35 per month 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

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

[23] *Supra* note 19.

[24] *Supra* note 13; *P.N.*, Docket No. 20-1159 (issued April 20, 2021); *Ralph P. Beachum, Sr.*, 55 ECAB 442 (2004).

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

[26] *Id*. at § 10.441(a).

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

hardship.[28] Therefore, the Board finds that it properly required recovery of the overpayment by deducting $869.35 per month from appellant's continuing compensation benefits, every 28 days.

CONCLUSION

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of $29,557.73 for the period August 9, 2000 through October 7, 2023, for which she was without fault, because she concurrently received FECA survivor benefits and SSA survivor benefits without an appropriate offset. The Board further finds that OWCP properly denied waiver of recovery of the overpayment and properly required recovery of the overpayment by deducting $869.35 per month from appellant's continuing compensation payments, every 28 days.

ORDER

IT IS HEREBY ORDERED THAT the March 21, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 23, 2026
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board

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