United States Department of Labor
Employees' Compensation Appeals Board

K.K., Appellant	)	
	)	**Docket No. 25-0450**
and	)	**Issued: September 1, 2026**
	)	
U.S. POSTAL SERVICE, INCOMING MAIL CENTER, Chelsea, MA, 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 March 31, 2025 appellant filed a timely appeal from a November 4, 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.[2]

ISSUES

The issues are: (1) whether appellant received an overpayment of compensation in the amount of $17,852.67 for the period April 1, 2023 through March 23, 2024, 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;

[1] 5 U.S.C. § 8101 *et seq.*

[2] The Board notes that, following the issuance of OWCP's November 4, 2024 decision, appellant submitted additional evidence, which was scanned into the record as of November 5, 2024. 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.*

(2) whether OWCP properly denied waiver of recovery of the overpayment; and (3) whether OWCP properly required recovery of the overpayment by deducting $200.00 from appellant's continuing FECA compensation payments, every 28 days.

FACTUAL HISTORY

On January 21, 2011 appellant, then a 54-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on January 3, 2011 she injured her left thumb due to repetitive motion, including holding and carrying bundles of mail with her left hand, while in the performance of duty.[3] OWCP initially accepted the claim for exacerbation of carpometacarpal (CMC) arthritis of the left hand. It subsequently expanded the acceptance of the claim to include permanent exacerbation of CMC arthritis, bilateral. OWCP paid appellant wage-loss compensation on the periodic rolls, effective May 8, 2011.

On a claim for compensation (Form CA-7) dated November 5, 2013, appellant noted her retirement system as the Federal Employees Retirement System (FERS).

On March 12, 2024, OWCP provided SSA with a FERS/SSA dual benefits form.

On March 13, 2024, SSA completed the dual benefits form, reporting appellant's SSA age-related retirement benefit rates with federal service and without federal service from April 2023 through December 2023. Beginning April 2023, the SSA rate with federal service was $1,659.00 and without federal service was $161.60; and beginning December 2023, the SSA rate with federal service was $1,712.00 and without federal service was $166.70.

On a FERS offset overpayment calculation worksheet dated March 25, 2024, OWCP calculated a total overpayment of $17,852.67. It found that during the period April 1 through 22, 2023 appellant had received an overpayment of $1,086.03; from April 23 through May 20, 2023 appellant had received an overpayment of $1,382.22; from May 21 through June 17, 2023 appellant had received an overpayment of $1,382.22; from June 18 through July 15, 2023 appellant had received an overpayment of $1,382.22; from July 16 through August 12, 2023 appellant had received an overpayment of $1,382.22; from August 13 through September 9, 2023 appellant had received an overpayment of $1,382.22; from September 10 through October 7, 2023 appellant had received an overpayment of $1,382.22; from October 8 through November 4, 2023 appellant had received an overpayment of $1,382.22; from November 5 through 30, 2023 appellant had received an overpayment of $1,283.49; from December 1 through 2, 2023 appellant had received an overpayment of $101.89; from December 3 through 30, 2023 appellant had received an overpayment of $1,426.43; from December 31, 2023 through January 27, 2024 appellant had received an overpayment of $1,426.43; from January 28 through February 24, 2024 appellant had received an overpayment of $1,426.43; and from February 25 through March 23, 2024 appellant had received an overpayment of $1,426.43.

[3] OWCP assigned the present claim OWCP File No. xxxxxx047. On January 3, 2011, appellant filed an occupational disease claim (Form CA-2) alleging that she injured the base of her left thumb when trying to hold bundles of mail causally related to factors of her federal employment. OWCP assigned that claim OWCP File No. xxxxxx277, but denied it in a March 4, 2011 decision. It has administratively combined appellant's claims, with OWCP File No. xxxxxx047 serving as the master file.

Beginning March 24, 2024, OWCP adjusted appellant's net wage-loss compensation to $1,426.43 per 28-day pay period to include the offset of her SSA age-related retirement benefits attributable to her federal service.

In a preliminary overpayment determination dated May 31, 2024, OWCP notified appellant that she had received an overpayment of compensation in the amount of $17,852.67 for the period April 1, 2023 through March 23, 2024 because she concurrently received FECA wage-loss compensation and SSA age-related retirement benefits without an appropriate offset. It showed its calculation which resulted in a total overpayment amount of $17,852.67. 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 June 24, 2024, appellant requested a prerecoupment hearing before a representative of OWCP's Branch of Hearings and Review. She contested the fact and amount of the overpayment and requested waiver of recovery. In an accompanying letter dated June 24, 2024, appellant contended that she was not at fault in the creation of the overpayment and that recovery of the overpayment would defeat the purpose of FECA.

Appellant completed a Form OWCP-20 on June 24, 2024. She reported total monthly income of $3,873.00, total monthly expenses of $4,277.90, and total assets of $1,130.00. Appellant submitted only some supporting financial documentation.

By decision dated November 4, 2024, OWCP's hearing representative finalized the preliminary overpayment determination that appellant had received an overpayment of compensation in the amount of $17,852.67 for the period April 1, 2023 through March 23, 2024 because she concurrently received FECA wage-loss compensation and SSA age-related retirement benefits, without an appropriate offset. 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 $200.00 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.[4] 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.[5] When an overpayment has been made to an individual because of an error of fact or law, adjustment shall be made under regulations

[4] *Supra* note 1 at § 8102(a).

[5] *Id.* at § 8116.

prescribed by the Secretary of Labor by decreasing later payments to which the individual is entitled.[6]

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.[7] 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 is part of the FERS retirement package, and the receipt of FECA benefits and federal retirement concurrently is a prohibited dual benefit.[8]

ANALYSIS -- ISSUE 1

The Board finds that appellant received an overpayment of compensation in the amount of $17,852.67 for the period April 1, 2023 through March 23, 2024, 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 April 1, 2023 through March 23, 2024. Appellant also received SSA age-related retirement benefits attributable to her federal service for the same period. However, no appropriate offset was made. As noted, a claimant cannot receive both compensation for wage loss under FECA and SSA age-related retirement benefits attributable to federal service for the same period, without an appropriate offset.[9] Accordingly, the Board finds that fact of overpayment has been established.

To determine the amount of the overpayment, the portion of SSA's benefits that were attributable to federal service must be calculated. The Board has reviewed OWCP's calculation of dual benefits received by appellant for the period April 1, 2023 through March 23, 2024, and finds that an overpayment of compensation in the amount of $17,852.67 was created.[10]

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

[6] *Id.* at § 8129(a).

[7] 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).

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

[9] *Id.*

[10] *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).

conscience.[11] 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.[12]

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.[13]

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 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.[14]

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.[15] 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 of the overpayment, 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.

[11] 5 U.S.C. § 8129(b).

[12] 20 C.F.R. § 10.436.

[13] *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. Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Final Overpayment Determinations*, Chapter 6.400.4a(2) and (3) (September 2020).

[14] 20 C.F.R. § 10.437; *see E.H.,* Docket No. 18-1009 (issued January 29, 2019).

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

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

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

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.[18]

Appellant completed a Form OWCP-20 on June 24, 2024. She reported total monthly income of $3,873.00 and total monthly expenses of $4,277.90. However, appellant submitted only some supporting financial documentation. As a result, OWCP did not have the necessary financial information to determine if recovery of the overpayment would defeat the purpose of FECA.[19]

The Board also finds that appellant has not established that she was entitled to waiver on the basis that recovery of the overpayment would be against equity and good conscience. Appellant has not shown that she would experience severe financial hardship in attempting to repay the debt, or that she has relinquished a valuable right or changed her position for the worse in reliance on the payments which created the overpayment.[20]

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 $17,852.67 overpayment.[21]

LEGAL PRECEDENT -- ISSUE 3

Section 10.441(a) of OWCP's regulations[22] 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."[23]

[18] *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).

[19] *See C.T.,* Docket No. 25-0666 (issued June 3, 2026); *P.D.,* Docket No. 24-0923 (issued October 15, 2024); *D.P.,* Docket No. 21-0187 (issued August 12, 2024); *B.G.,* Docket No. 20-0541 (issued April 28, 2021); *G.G.,* Docket No. 19-0684 (issued December 23, 2019).

[20] *See S.T., supra* note 18; *B.C.,* Docket No. 19-0629 (issued June 2, 2020); *William J. Murphy*, 41 ECAB 569, 571-72 (1989).

[21] *S.T., id.*; *S.W.,* Docket No. 20-0363 (issued November 23, 2020).

[22] 20 C.F.R. § 10.441(a).

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

ANALYSIS -- ISSUE 3

The Board finds that OWCP properly required recovery of the overpayment by deducting $200.00 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 to minimize hardship.[24] Therefore, it properly required recovery of the overpayment by deducting $200.00 from appellant's continuing compensation payments, every 28 days.

CONCLUSION

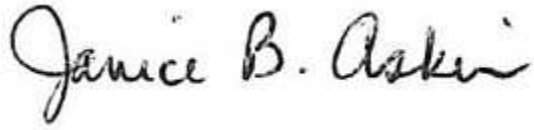
The Board finds that appellant received an overpayment of compensation in the amount of $17,852.67 for the period April 1, 2023 through March 23, 2024, for which she was without fault, because she concurrently received FECA wage-loss compensation and SSA age-related retirement benefits, without an appropriate offset. The Board further finds that OWCP properly denied waiver of recovery of the overpayment and properly required recovery of the overpayment by deducting $200.00 from appellant's continuing FECA compensation, every 28 days.

ORDER

IT IS HEREBY ORDERED THAT the November 4, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 1, 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

[24] *See C.B.,* Docket No. 25-0246 (issued February 19, 2025); *C.P.,* Docket No. 22-1248 (issued June 14, 2024); *M.S.,* Docket No. 20-0068 (issued May 14, 2021); *M.B.,* Docket No. 20-1578 (issued March 25, 2021).