United States Department of Labor
Employees' Compensation Appeals Board

M.A., Appellant	)	
	)	**Docket No. 26-0163**
and	)	**Issued: September 11, 2026**
	)	
U.S. POSTAL SERVICE, RIVERDALE POST OFFICE, Riverdale, IL, Employer	)	

Appearances:
Alan J. Shapiro, Esq., for the appellant[1]
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 December 9, 2025 appellant, through counsel, filed a timely appeal from a November 14, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[3]

[1] In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

[2] 5 U.S.C. § 8101 *et seq.*

[3] The Board notes that, following the issuance of the November 14, 2025 decision, OWCP received additional evidence. 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 OWCP properly determined that appellant received an overpayment of compensation in the amount of $15,678.54 during the period June 19 through November 2, 2024, for which she was without fault, because she concurrently received Office of Personnel Management (OPM) retirement benefits and FECA wage-loss compensation; and (2) whether OWCP properly denied waiver of recovery of the overpayment.

FACTUAL HISTORY

On March 26, 2014 appellant, then a 47-year-old carrier technician, filed a traumatic injury claim (Form CA-1) alleging that on March 11, 2014 she sprained her left thigh/upper leg on black ice while in the performance of duty.[4] She stopped work on March 13, 2014, and returned to work on March 24, 2014. OWCP initially accepted the claim for left hamstring strain and later expanded its acceptance of the claim to include abnormality of gait, internal derangement of left knee, unilateral primary osteoarthritis of left knee, and medial meniscus tear of left knee. It paid appellant wage-loss compensation on the supplemental and periodic rolls, commencing May 3, 2014.

In a letter dated November 15, 2023, OWCP advised appellant of her weekly compensation rate on the supplemental rolls. It further informed her that she must report any retirement income received from any federal agency as federal employees who receive wage-loss compensation benefits under FECA are not permitted to concurrently receive benefits under certain other federal programs, including the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS).

On November 25, 2024, OWCP received an election of benefits form, signed by appellant on October 8, 2024, in which she elected to receive OPM retirement benefits in lieu of FECA benefits, effective June 19, 2024.

In a letter dated January 8, 2025, OWCP advised OPM that appellant had elected to receive OPM retirement benefits, effective June 19, 2024, in lieu of FECA benefits. It requested that OPM commence monthly annuity payments effective June 19, 2024. OWCP also requested that OPM reimburse the amount of $15,678.54 for FECA benefits paid during the period June 19 through November 2, 2024.

In a subsequent letter dated January 21, 2025, OWCP advised OPM that a potential overpayment had occurred under FECA and requested that OPM complete an attached questionnaire addressing whether appellant had submitted an application for OPM benefits, and whether benefits were currently being paid.

On January 31, 2025, OPM completed OWCP's January 21, 2025 questionnaire. It indicated that appellant submitted an application for OPM benefits; that on June 19, 2024 she began to receive OPM retirement benefits in the monthly amount of $1,758.00; and that she was

[4] OWCP assigned the present claim OWCP File No. xxxxxx498. Appellant has a prior claim before OWCP. Under OWCP File No. xxxxxx948, OWCP accepted appellant's October 12, 2017 traumatic injury claim for sprain of tibiofibular ligament of left ankle, initial encounter. OWCP administratively combined these claims, with OWCP File No. xxxxxx948 serving as the master file.

currently being paid OPM benefits. In a February 20, 2025 letter, OPM again advised OWCP that it began paying appellant retirement benefits, effective June 19, 2024.

In a February 10, 2025 letter, OPM continued to inform OWCP that it began payments to appellant, effective June 19, 2024, and that no retroactive benefits were payable. It further advised that it could not collect the overpayment on OWCP's behalf until OWCP provided certification that appellant had been provided due process and a collection schedule was provided.

In a March 12, 2025 memorandum of telephone call (Form CA-110), appellant informed OWCP that she did not receive payment from OPM until December 2024. She contended that she had not received any money from OPM for the period June 19 through November 2, 2024.

In a preliminary overpayment determination dated March 19, 2025, OWCP notified appellant that she had received an overpayment of compensation in the amount of $15,678.54 for the period June 19 through November 2, 2024, because she received prohibited dual benefit payments. It explained that the overpayment occurred because she concurrently received both OPM retirement benefits and FECA wage-loss compensation benefits during this period, which resulted in a prohibited dual benefit payment. OWCP provided appellant with its calculations listing the FECA compensation benefits that she received after her election of OPM benefits on June 19, 2024. Its calculations showed that she received FECA benefits from June 19 through November 2, 2024 in the amount of $15,678.54. 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 enclosed overpayment recovery questionnaire (Form OWCP-20) and submit supporting financial documentation, including copies of income tax returns, bank account statements, bills, pay slips, and other records to support her reported income and expenses. Additionally, OWCP 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.

On March 28, 2025, appellant advised OWCP that OPM had verified that she was "double paid" by OPM and OWCP. She inquired whether she could set up a repayment plan for the FECA overpayment.

On March 28, 2025, 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 of the overpayment.

Appellant completed a Form OWCP-20 on April 15, 2025. She reported total monthly income of $3,240.00, total monthly expenses of $2,954.00, and no assets. Appellant also did not provide supporting financial documentation.

A prerecoupment hearing was held on September 4, 2025.

Following the September 4, 2025 prerecoupment hearing, appellant submitted a Form OWCP-20 dated September 3, 2025, wherein she reported total monthly income of $2,931.99, total monthly expenses of $3,241.22,[5] and $60.00 in a checking account. She provided limited supporting financial documentation, including an undated bank statement, which indicated that she had received several online banking credits from several individuals. Appellant contended

[5] The Board notes that, appellant noted her monthly expenses as $3,141.22. However, the correct total is $3,241.22.

that she did not receive retirement benefits from OPM until September 2024. She submitted a copy of a previous September 18, 2024 election form wherein she elected OPM retirement benefits as of September 18, 2024.

By decision dated November 14, 2025, OWCP's hearing representative finalized the preliminary overpayment determination that appellant had received an overpayment of compensation in the amount of $15,678.54 for the period June 19 through November 2, 2024. 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 appellant to submit payments in installments of $500.00 per month as recovery of the overpayment.

LEGAL PRECEDENT -- ISSUE 1

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.[6] 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.[7] 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.[8]

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.[9] The beneficiary must elect the benefit that he or she wishes to receive.[10] OWCP's procedures also explain that the employee must make an election between FECA benefits and OPM benefits.[11]

The Board has held that a FECA beneficiary may not receive wage-loss compensation concurrently with a federal retirement or survivor annuity.[12] The clear language of section 8116(a) of FECA, section 10.421(a) of OWCP's implementing regulations, and OWCP's procedures prohibit the concurrent receipt of FECA wage-loss benefits and a federal annuity.[13]

[6] 5 U.S.C. § 8102(a).

[7] *Id.* at § 8116.

[8] *Id.* at § 8129(a).

[9] 20 C.F.R. § 10.421(a).

[10] *Id.*

[11] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Dual Benefits*, Chapter 2.1000.4a (January 1997); *see also S.C.,* Docket No. 25-0825 (issued December 17, 2025); *Harold Weisman,* Docket No. 93-1335 (issued March 30, 1994).

[12] 5 U.S.C. § 8116(a).

[13] *See id.*; 20 C.F.R. § 10.421(a); Federal (FECA) Procedure Manual, *supra* note 11. *See also J.B.,* Docket No. 22-1301 (issued March 26, 2024); *R.S.,* Docket No. 11-0428 (issued September 27, 2011).

ANALYSIS -- ISSUE 1

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of $15,678.54, for the period June 19 through November 2, 2024, for which she was without fault, because she concurrently received OPM retirement benefits and FECA wage-loss compensation.

The case record establishes that appellant received FECA wage-loss compensation during the period June 19 through November 2, 2024. On October 8, 2024 appellant elected OPM retirement benefits, in lieu of FECA wage-loss compensation, effective June 19, 2024. OPM began paying her retirement benefits effective June 19, 2024. As explained above, a FECA beneficiary may not receive wage-loss compensation concurrently with a federal retirement or survivor annuity.[14] The clear language of section 8116(a) of FECA, section 10.421(a) of OWCP's implementing regulations, and OWCP's procedures prohibit the concurrent receipt of FECA wage-loss compensation and a federal annuity.[15] Therefore, the Board finds that an overpayment of compensation was created.[16]

With regard to the amount of the overpayment, OWCP provided its calculations showing that appellant received $15,678.54 in FECA wage-loss compensation for the period June 19 through November 2, 2024. The Board has reviewed OWCP's calculations and finds that it properly determined that appellant received prohibited dual benefits totaling $15,678.54.

LEGAL PRECEDENT -- ISSUE 2

Section 8129 of FECA provides that an individual who is without fault in creating or accepting an overpayment is still subject to recovery of the overpayment unless adjustment or recovery would defeat the purpose of FECA or would be against equity and good conscience.[17]

Recovery of an overpayment will defeat the purpose of FECA if 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.[18] Additionally, 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 in attempting to repay the

[14] *Supra* notes 7-8; *B.C.,* Docket No. 20-1415 (issued April 14, 2021).

[15] *Id.*; *see also W.D.,* Docket No. 26-0337 (issued July 21, 2026); *E.G.,* Docket No. 26-0308 (issued May 29, 2026); *M.G.,* Docket No. 20-0867 (issued October 13, 2021).

[16] *Id.*

[17] 5 U.S.C. § 8129(a)-(b).

[18] 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).

debt or when an individual, in reliance on such payment or on notice that such payments would be made, gives up a valuable right or changes his or her position for the worse.[19]

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.[20] 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.[21]

ANALYSIS -- ISSUE 2

The Board finds that OWCP properly denied waiver of recovery of the overpayment of compensation.

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.[22]

Appellant completed a Form OWCP-20 on April 15, 2025, wherein she reported total monthly income of $3,240.00, total monthly expenses of $2,954.88, and no assets. In an updated Form OWCP-20 dated September 3, 2025, appellant reported total monthly income of $2,931.99, total monthly expenses of $3,241.22, and $60.00 in a checking account. However, she 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.[23]

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.[24]

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[19] *Id.* at § 10.437(a)-(b).

[20] *Id.* at § 10.438(a); *M.S.,* Docket No. 18-0740 (issued February 4, 2019).

[21] *Id.* at § 10.438(b).

[22] *Supra* note 20.

[23] *See J.F.,* Docket No. 24-0054 (issued May 28, 2026); *J.S.,* Docket No. 25-0558 (issued April 24, 2026); *S.S.,* Docket No. 20-1009 (issued December 8, 2020); *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).

[24] *See P.D., id.*; *D.P., id.*; *B.G., id.*; *G.G., id.*; *William J. Murphy*, 41 ECAB 569, 571-72 (1989).

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.[25]

CONCLUSION

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of $15,678.54, for the period June 19 through November 2, 2024, for which she was without fault, because she concurrently received OPM retirement benefits and FECA wage-loss compensation. The Board further finds that OWCP properly denied waiver of recovery of the overpayment.[26]

ORDER

IT IS HEREBY ORDERED THAT the November 14, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 11, 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

[25] *Id.*

[26] With respect to recovery of the overpayment of compensation, the Board's jurisdiction is limited to reviewing those cases where OWCP seeks recovery from continuing compensation benefits under FECA. As appellant is no longer receiving wage-loss compensation, the Board does not have jurisdiction with respect to the recovery of the overpayment under the Debt Collection Act. *See T.C.,* Docket No. 21-0612 (issued December 2, 2021); *R.W.,* Docket No. 18-1059 (issued February 6, 2019); *Cheryl Thomas,* 55 ECAB 610 (2004).