United States Department of Labor
Employees' Compensation Appeals Board

M.R., Appellant	)	
and	)	**Docket No. 26-0496**
	)	**Issued: September 8, 2026**
DEPARTMENT OF HOMELAND SECURITY, EMERGENCY PREPAREDNESS AND RESPONSE, 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
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge

JURISDICTION

On May 6, 2026, appellant filed a timely appeal from an April 22, 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 over the merits of this case.[2]

ISSUES

The issues are: (1) whether OWCP properly determined that appellant received an overpayment of compensation in the amount of $6,448.88, for the period April 1, 2024 through

[1] 5 U.S.C. § 8101 *et seq.*

[2] The Board notes that, following the May 6, 2026 OWCP decision, appellant submitted additional evidence on appeal to the Board. 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.*

September 6, 2025, for which he was without fault, because he 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 $1,113.42 from appellant's continuing compensation payments, every 28 days.

FACTUAL HISTORY

On August 10, 2017, appellant, then a 59-year-old disability integration advisor, filed a traumatic injury claim (Form CA-1) alleging that on August 1, 2017 he sustained multiple injuries as a result of a motor vehicle accident while in the performance of duty. He explained that his vehicle was in a head-on collision with another vehicle while traveling 60 miles per hour, which caused his head to hit the steering wheel and side window. Appellant stopped work on August 2, 2017. OWCP accepted the claim for post-concussion syndrome and fracture of tooth roots, numbers 4 through 13. It subsequently expanded the acceptance of the claim to include left knee meniscus tear; left knee chondromalacia; right knee osteoarthritis; and major depressive disorder, temporary aggravation. OWCP paid appellant wage-loss compensation on the supplemental rolls, effective May 7, 2018, and on the periodic rolls, effective March 29, 2020.

The case record reflects that appellant's retirement coverage was under the Federal Employees Retirement System (FERS).

On August 25, 2025, OWCP provided SSA with a dual benefits form for its completion.

On a completed dual benefits form, dated August 26, 2025, SSA reported appellant's SSA age-related retirement benefit rates with and without federal service from April through December 2024. Beginning April 2024, the SSA rate with federal service was $1,179.10 and without federal service was $810.70. Beginning December 1, 2024, the SSA rate with federal service was $1,208.50 and without federal service was $830.90.

In a letter dated September 25, 2025, OWCP advised appellant that, effective October 4, 2025, his FECA wage-loss compensation would be offset by his SSA age-related retirement benefits every 28 days, in the amount of $348.55. It accordingly adjusted appellant's new net wage-loss compensation payments to $4,341.45 every 28 days.

On September 25, 2025, OWCP prepared a FERS offset overpayment calculation worksheet, wherein it explained the calculation of appellant's SSA offset overpayment for the period April 1, 2024 through September 6, 2025. It determined that for the period April 1 through November 30, 2024, appellant received an overpayment in the amount of $2,963.38; and for the period December 1, 2024 through September 6, 2025, he received an overpayment in the amount of $3,485.50. This resulted in a total overpayment in the amount of $6,448.88.

In a January 22, 2026 preliminary overpayment determination, OWCP notified appellant that he had received an overpayment of compensation in the amount of $6,448.88, for the period April 1, 2024 through September 6, 2025, because he concurrently received FECA wage-loss compensation and SSA age-related retirement benefits, without an appropriate offset. It further determined that appellant was without fault in the creation of the overpayment. OWCP requested

that he 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 his reported income and expenses. Additionally, it notified appellant that, within 30 days of the date of the letter, he could request a final decision based on the written evidence, or a prerecoupment hearing.

On February 10, 2026 appellant requested waiver of recovery of the overpayment and a decision based on the written evidence. A completed OWCP-20 form was not received.

By decision dated April 22, 2026, OWCP finalized its preliminary overpayment determination, finding that appellant had received an overpayment of compensation in the amount of $6,448.88 for the period April 1, 2024 through September 6, 2025, because he concurrently received FECA wage-loss compensation and SSA age-related retirement benefits, without an appropriate offset. It determined that he 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 $1,113.42 from his continuing compensation payments, every 28 days.[3]

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.[4] 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.[5]

Section 10.421(d) of the implementing regulations requires OWCP to reduce the amount of compensation by the amount of any SSA age-related retirement benefits that are attributable to federal service of the employee.[6] FECA Bulletin No. 97-09 provides 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.[7]

ANALYSIS -- ISSUE 1

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of $6,448.88, for the period April 1, 2024 through September 6,

[3] The record reflects that as of the date of the final overpayment determination, appellant received payments of $4,453.69 in net compensation, every 28 days.

[4] 5 U.S.C. § 8102(a).

[5] *Id*. at § 8116.

[6] 20 C.F.R. § 10.421(d).

[7] FECA Bulletin No. 97-09 (February 3, 1997).

2025, for which he was without fault, because he concurrently received FECA wage-loss compensation and SSA age-related retirement benefits, without an appropriate offset.

The evidence of record establishes that appellant received wage-loss compensation under FECA, and SSA age-related retirement benefits attributable to his federal service based on his federal service for the same period. However, no appropriate offset was made. A claimant cannot receive both compensation for wage loss and SSA age-related retirement benefits attributable to federal service for the same period.[8] Consequently, the fact of overpayment has been established.[9]

With regard to the amount of the overpayment, OWCP provided its overpayment calculations for this period based on SSA's dual benefits form and determined that appellant received an overpayment of compensation in the amount of $6,448.88. The Board has reviewed OWCP's calculations for the period April 1, 2024 through September 6, 2025, and finds that an overpayment of compensation in the amount of $6,448.88 was created.

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.[10]

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.[11] 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 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.[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. 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

[8] *See E.M.*, Docket No. 21-1231 (issued April 19, 2023); *E.K.*, Docket No. 18-0587 (issued October 1, 2018).

[9] *L.M.,* Docket No. 19-1197 (issued January 8, 2020).

[10] 5 U.S.C. § 8129(a)-(b).

[11] 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).

[12] *Id.* at § 10.437(a)-(b).

determine the repayment schedule, if necessary.[13] 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.[14]

ANALYSIS -- ISSUE 2

The Board finds that OWCP properly denied waiver of recovery of the $6,448.88 overpayment of compensation.[15]

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] Appellant, however, had the responsibility to provide the appropriate financial information to OWCP.[17]

In its preliminary overpayment determination dated January 22, 2026, OWCP explained the importance of providing the completed Form OWCP-20 and supporting financial documentation, including copies of income tax returns, bank account statements, bills, pay slips, and any other records to support income and expenses. It advised appellant that it would deny waiver if he failed to furnish the requested information within 30 days. However, appellant did not submit a completed Form OWCP-20. As a result, OWCP did not have the necessary financial information to determine if recovery of the overpayment would defeat the purpose of FECA or if recovery would be against equity and good conscience.[18]

Consequently, as appellant did not submit the information required under 20 C.F.R. § 10.438, which was necessary to determine his eligibility for waiver, the Board finds that OWCP properly denied waiver of recovery of the overpayment.[19]

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

[14] *Id.* at § 10.438(b).

[15] *A.C.*, Docket No. 18-1550 (issued February 21, 2019).

[16] 20 C.F.R. § 10.436.

[17] *Id*. at § 10.438; *see N.J.*, Docket No. 19-1170 (issued January 10, 2020).

[18] *See W.D.,* Docket No. 26-0337 (issued July 21, 2026); *R.M.*, Docket No. 19-1570 (issued June 1, 2020); *G.G.*, Docket No. 19-0684 (issued December 23, 2019).

[19] *See T.L.,* Docket No. 25-0426 (issued May 14, 2025); *J.B.,* Docket No. 24-0876 (issued September 26, 2024); *P.M.*, Docket No. 22-1059 (issued April 28, 2023); *S.P.,* Docket No. 19-1318 (issued July 31, 2020); *L.F.,* Docket No. 15-0489 (issued May 11, 2015). *See also 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).

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.[20]

Section 10.441 of OWCP's regulations provides 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 the error is discovered or his 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.[21]

ANALYSIS -- ISSUE 3

The Board finds that OWCP properly required recovery of the overpayment by deducting $1,113.42 from appellant's continuing compensation payments, every 28 days.

OWCP's procedures provide that, in instances where the claimant fails to provide the requested financial information, OWCP should set the rate of recovery at 25 percent of the 28-day net compensation amount until the balance of the overpayment is paid in full.[22] In this case, appellant did not submit a completed Form OWCP-20, reporting his income, assets, and expenses with supporting financial documentation prior to OWCP's issuance of the final overpayment determination. As of April 22, 2026, appellant's net wage-loss compensation payment was in the amount of $4,453.69. Twenty-five percent of $4,453.69 is $1,113.42. The Board, therefore, finds that OWCP properly required recovery of the overpayment by deducting $1,113.42 from appellant's continuing compensation payments, every 28 days.[23]

CONCLUSION

The Board finds that appellant received an overpayment of compensation in the amount of $6,448.88, for the period April 1, 2024 through September 6, 2025, for which he was without fault, as he 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 $6,448.88 overpayment and properly required recovery of the overpayment by deducting $1,113.42 from appellant's continuing compensation payments, every 28 days.

[20] 20 C.F.R. § 10.441; *see T.T.,* Docket No. 20-1257 (issued July 29, 2022); *M.P.,* Docket No. 18-0902 (issued October 16, 2018).

[21] *Id.* at § 10.441(a).

[22] Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Debt Liquidation*, Chapter 6.500.8c(1) (September 2018).

[23] *L.D.,* Docket No. 26-0061 (issued February 27, 2026); *J.J.,* Docket No. 25-0778 (issued December 2, 2025).

ORDER

IT IS HEREBY ORDERED THAT the April 22, 2026 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 8, 2026
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board