United States Department of Labor
Employees' Compensation Appeals Board

C.B., Appellant	)	
and	)	**Docket No. 26-0599**
	)	**Issued: September 23, 2026**
DEPARTMENT OF VETERANS AFFAIRS, CAPTAIN JAMES A. LOVELL FEDERAL HEALTH CARE CENTER, North Chicago, IL, 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 June 16, 2026 appellant filed a timely appeal from an April 27, 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 appellant received an overpayment of compensation in the amount of $12,196.02 during the period July 1, 2025 through January 24, 2026, for which she was

[1] 5 U.S.C. § 8101 *et seq*.

[2] The Board notes that following the April 27, 2026 decision, appellant submitted additional evidence to OWCP and with her appeal to the Board. 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.*

without fault, because she 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 $334.00 from appellant's continuing compensation payments, every 28 days.

FACTUAL HISTORY

On August 8, 2014 appellant, then a 55-year-old supervisory program specialist, filed an occupational disease claim (Form CA-2) alleging that she developed post-traumatic stress disorder (PTSD) due to factors of her federal employment, which included threats by a former employee to kill her. She first became aware of her condition on April 11, 2011, and realized it was caused or aggravated by factors of her federal employment on July 31, 2014. Appellant stopped work on August 4, 2014. Appellant's supervisor noted on the claim form that appellant's retirement coverage was under the Federal Employees Retirement System (FERS). OWCP accepted the claim for PTSD and panic disorder (episodic paroxysmal anxiety) without agoraphobia. It paid appellant wage-loss compensation on the supplemental rolls effective February 5, 2015, and on the periodic rolls commencing March 6, 2016.[3]

On January 20, 2026 OWCP provided SSA with a FERS/SSA dual benefits form.

On a January 24, 2026 completed dual benefits form, SSA reported that appellant received SSA age-related retirement benefits as of July 2025. It provided her SSA age-related retirement benefit rates, with and without federal service. Beginning July 2025, appellant's SSA rate with federal service was $2,422.40 and without federal service was $656.90. Beginning December 2025, her SSA rate with federal service was $2,490.20 and without federal service was $675.20.

On February 2, 2026 OWCP notified appellant that her wage-loss compensation payments would be adjusted to reflect an offset of $1,675.38 per 28-day pay period for her SSA age-related retirement benefits attributable to her federal service. It stated that beginning with her February 21, 2026 payment, her adjusted wage-loss compensation would be $3,123.38, every 28 days. The record reflects that OWCP adjusted appellant's wage-loss compensation effective January 25, 2026.

In a February 6, 2026 preliminary overpayment determination, OWCP notified appellant that she had received an overpayment of compensation in the amount of $12,196.02 for the period July 1, 2025 through January 24, 2026, because she concurrently received FECA wage-loss compensation and SSA age-related retirement benefits, without an appropriate offset. It indicated that it used the information provided by SSA on January 24, 2026 to calculate the 28-day offset for the relevant periods. OWCP determined that, for the period July 1 through November 30, 2025, appellant received an overpayment in the amount of $8,905.09, and for the period December 1, 2024 through January 24, 2026, she received an overpayment in the amount of $3,290.93, resulting in a total overpayment amount of $12,196.02. It further advised her of its preliminary determination that she was without fault in the creation of the overpayment and requested that she complete an overpayment action request form and an overpayment recovery

[3] Appellant retired from the employing establishment on October 29, 2016.

questionnaire (Form OWCP-20), and submit supporting financial documentation, including copies of income tax returns, bank account statements, bills, canceled checks, pay slips, and any other records to support income and expenses. Additionally, OWCP notified appellant that she could request a final decision based on the written evidence or a prerecoupment hearing within 30 days.

On February 6, 2026 appellant requested a review of the written evidence regarding waiver of recovery of the overpayment. She submitted a completed Form OWCP-20, wherein she reported total monthly income of $7,770.58, total monthly expenses of $3,015.34 and assets of $3,640.00. With her February 6, 2026 Form OWCP-20, appellant submitted some supporting financial documentation.

By decision dated April 27, 2026, OWCP finalized the February 6, 2026 preliminary overpayment determination, finding that appellant had received an overpayment of compensation in the amount of $12,196.02 for the period July 1, 2025 through January 24, 2026, because she concurrently received both FECA wage-loss compensation and SSA age-related retirement benefits. It found that she was without fault in the creation of the overpayment, but denied waiver of recovery of the overpayment because her reported monthly income exceeded her reported monthly expenses by more than $50.00. OWCP explained that appellant reported $7,770.58 in monthly income and $3,015.34 in monthly expenses. It required recovery of the overpayment by payment by deducting $334.00 from appellant's 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 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

[4] 5 U.S.C. § 8102(a).

[5] *Id.* at § 8116.

[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).

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 OWCP properly determined that appellant received an overpayment of compensation in the amount of $12,196.02 for the period July 1, 2025 through January 24, 2026, for which she was without fault, because she concurrently received FECA wage-loss compensation and SSA age-related retirement benefits, without an appropriate offset.

SSA provided a completed dual benefits form showing that appellant was in receipt of SSA age-related retirement benefits from July 1, 2025 through January 24, 2026. The case record, however, shows that appellant concurrently received FECA wage-loss compensation for that same period. 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.[9] Accordingly, the Board finds that fact of overpayment has been established.

With regard to the amount of the overpayment, SSA reported appellant's age-related retirement benefit rates with and without federal service for the period July 1, 2025 through January 24, 2026. OWCP provided its overpayment calculations based on the information provided by SSA and determined that she received an overpayment in the amount of $12,196.02. The Board has reviewed OWCP's calculations and finds that appellant received an overpayment of compensation in the amount of $12,196.02.

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] 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.[11]

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 the beneficiary's assets do not exceed a specified amount as determined by OWCP.[12] An individual is deemed to need substantially all of his or her current income to meet current ordinary

[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] 5 U.S.C. § 8129(a)-(b).

[11] *D.H.,* Docket No. 19-0384 (issued August 12, 2019); *V.H.,* Docket No. 18-1124 (issued January 16, 2019); *L.S.,* 59 ECAB 350 (2008).

[12] 20 C.F.R. § 10.436(a)(b).

and necessary living expenses if monthly income does not exceed monthly expenses by more than $50.00.[13] 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.[14] 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.[15] Nonliquid assets include, but are not limited to, the fair market value of an owner's equity in property such as a camper, boat, second home, furnishings/supplies, vehicle(s) above the two allowed per immediate family, retirement account balances (such as Thrift Savings Plan or 401(k)), jewelry, and artwork.[16]

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.[17] OWCP's procedures provide that, to establish that a valuable right has been relinquished, an individual must demonstrate that the right was in fact valuable, that he or she was unable to get the right back, and that his or her action was based primarily or solely on reliance on the payment(s) or on the notice of payment.[18]

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 would be against equity and good conscience.[19] In order to establish that recovery of the overpayment would defeat the purpose of FECA, appellant must show that she requires substantially all of her income to meet current ordinary and necessary living expenses, and that her assets do not exceed the established limit as determined by OWCP procedures.[20]

In a completed Form OWCP-20, dated February 6, 2026, appellant reported total monthly income of $7,770.58, total monthly expenses of $3,015.34, and assets of $3,640.00. As appellant's

[13] Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Final Overpayment Determinations*, Chapter 6.400.4a(3) (version 1.1, issued April 24, 2026).

[14] *Id.* at Chapter 6.400.4a(2).

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

[16] *Id.* at Chapter 6.400.4b(3)(a), (b).

[17] 20 C.F.R. § 10.437; *see E.H.,* Docket No. 18-1009 (issued January 29, 2019).

[18] *Supra* note 13 at Chapter 6.400.4c(3).

[19] *Supra* note 10.

[20] *Supra* notes 12-14.

monthly income exceeds her monthly expenses by more than $50.00, the Board finds that OWCP properly found that recovery of the overpayment would not defeat the purpose of FECA.[21]

The Board 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 because she has not shown, for the reasons noted above, that she would experience severe financial hardship in attempting to repay the debt or that she relinquished a valuable right or changed her position for the worse in reliance on the payment which created the overpayment.[22]

The Board thus finds that OWCP properly denied waiver of recovery of the overpayment for the period July 1, 2025 through January 24, 2026.

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.[23]

Section 10.441 of OWCP's regulations[24] 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.[25]

ANALYSIS -- ISSUE 3

The Board finds OWCP properly required recovery of the overpayment by deducting $334.00 from appellant's continuing compensation payments, every 28 days.

In determining whether appellant could repay the overpayment by deducting from her continuing compensation payments, OWCP took into account the factors set forth in 20 C.F.R. § 10.441 and found that this method of recovery would minimize any resulting hardship, not necessarily eliminate it, while at the same time liquidating the debt in a reasonably prompt fashion.[26] Thus, the Board finds that OWCP properly required recovery of the overpayment by deducting $334.00 from appellant's continuing compensation payments, every 28 days.

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[21] *Supra* note 13; *C.S.,* Docket No. 26-0424 (issued July 21, 2026).

[22] *C.S., id.*; *L.D.,* Docket No. 18-1317 (issued April 17, 2019); *William J. Murphy,* 41 ECAB 569, 571-72 (1989).

[23] 20 C.F.R. § 10.441; *see M.P.,* Docket No. 18-0902 (issued October 16, 2018).

[24] *Id.* at § 10.441(a).

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

[26] *C.S.,* Docket No. 23-0587 (issued July 9, 2025); *J.B.,* Docket No. 24-0876 (issued September 26, 2024); *L.F.,* Docket No. 15-0489 (issued May 11, 2015).

CONCLUSION

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of $12,196.02 for the period July 1, 2025 through January 24, 2026, 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 of compensation and properly required recovery of the overpayment by deducting $334.00 from appellant's continuing compensation payments, every 28 days.

ORDER

IT IS HEREBY ORDERED THAT the April 27, 2026 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