

² The Board notes that a appellant submitted additional evidence following the August 2, 2024 decision. However, the Board’s *Rules of Procedures* 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.*

Administration (SSA) age-related retirement benefits and FECA wage-loss compensation, without an appropriate offset; (2) whether OWCP properly denied waiver of recovery of the overpayment; (3) whether OWCP properly required recovery by deducting \$962.60 from appellant's continuing compensation payments every 28 days; and (4) whether OWCP abused its discretion by denying appellant's request for authorization for right total knee arthroscopy.

FACTUAL HISTORY

On March 31, 2020, appellant, then a 69-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on March 30, 2020 he was preparing mail ready for a dismounted delivery when a vehicle struck the rear of his parked vehicle which caused him to be thrown from his vehicle and land on a concrete driveway while in the performance of duty. He stopped work that same day. Appellant's supervisor noted on the claim form that appellant's retirement system was under the Federal Employees Retirement System (FERS). OWCP accepted the claim for unspecified injury of head; contusion/laceration of cerebellum with location of unspecified duration; and trauma subdural hematoma with location of unspecified duration. On June 16, 2020, it expanded the acceptance of the claim to include other speech and language deficits following cerebral infarction; contusion of unspecified part of head; strain of muscle, fascia and tendon at neck level; abrasion, right knee, sequela; contusion of right knee, strain of muscle, fascia, and tendon of right hip; urinary tract infection, site not specified; and diffuse traumatic brain injury (TBI) with location of unspecified duration, sequela. OWCP subsequently further expanded the acceptance of the claim to include sprain of the left knee, unspecified site; abrasion of the left knee; strain of muscles, tendons and fascia; other tear of the medial meniscus; and bilateral post-traumatic osteoarthritis of the knees. It paid appellant wage-loss compensation on the supplemental rolls effective May 15, 2020, and on the periodic rolls effective May 24, 2020.

In a September 7, 2022 report, Dr. Gary Okamura, a Board-certified orthopedic surgeon, noted that appellant was seen in follow up for his bilateral knee arthritis, severe with meniscal tears. He related that a request for authorization for a total knee replacement was submitted to OWCP and was denied. Dr. Okamura noted that appellant's accepted medical conditions included right knee contusion, and right knee strained muscles and tendons. He related that appellant had a magnetic resonance imaging (MRI) scan of his right knee performed on December 14, 2021, which showed a meniscal tear and cartilage loss. Dr. Okamura explained that the diagnoses of right knee abrasion and contusion were never updated to include the diagnoses of bilateral knee meniscal tears with arthritis. He recommended proceeding with right total knee replacement and explained that the meniscal tears were contributing to the progression of arthritis. Dr. Okamura opined that the persistent pain and the meniscal tears were work related.

On June 23, 2023, OWCP contacted SSA to obtain information as to whether an offset of SSA age-related retirement benefits and FECA wage-loss compensation was required.

On August 12, 2023, OWCP received from SSA a dual benefits form which indicated that appellant had been in receipt of SSA age-related retirement benefits since December 2016.

On August 25, 2023, OWCP referred the request for right total knee replacement to a district medical adviser (DMA) for review.

In an August 30, 2023 report, Dr. Arthur S. Harris, a Board-certified orthopedic surgeon serving as OWCP's DMA, reviewed appellant's request for right total knee arthroplasty. He explained that there was insufficient information in the case file to authorize the requested surgery, as the report from Dr. Okamura did not document failure of conservative care, body mass index (BMI), and diagnostic studies demonstrating the extent of osteoarthritis and joint space loss.

In a letter to appellant dated September 7, 2023, OWCP informed him that it had received notification from SSA that he was receiving retirement benefits, that he began receiving FECA wage-loss compensation payments beginning May 15, 2020, and that it would notify him of any reduction of his FECA wage-loss compensation benefits within the next 30 days.

On October 2, 2023, OWCP requested additional information from SSA, noting that data was missing or incomplete for 2020, 2021, and 2022.

On December 28, 2023, OWCP received from SSA a dual benefits form which reported appellant's SSA age-related retirement benefit rates with and without a FERS offset. Beginning May 2020, the SSA rate with FERS was \$2,259.80, and without FERS was \$988.50; beginning December 2020, the SSA rate with FERS was \$2,289.00, and without FERS was \$1,001.30; beginning December 2021, the SSA rate with FERS was \$2,424.10, and without FERS was \$1,060.30; beginning December 2022, the SSA rate with FERS was \$2,634.90, and without FERS was \$1,152.50; and beginning December 2023, the SSA rate with FERS was \$2,719.20, and without FERS was \$1,189.30.

A February 1, 2024 FERS offset overpayment calculation worksheet indicated that appellant had been in receipt of FECA wage-loss compensation and SSA age-related retirement benefits for the period May 15, 2020 through January 27, 2024. The worksheet indicated a FERS offset calculation in the amount of \$8,382.20 for the period May 15 through November 30, 2020; \$15,496.05 for the period December 1, 2020 through November 30, 2021; \$16,410.56 for the period December 1, 2021 through November 30, 2022; \$17,837.67 for the period December 1, 2022 through November 30, 2023; and \$2,925.30 for the period December 1, 2023 through January 27, 2024. It found that the overpayment totaled \$61,051.79.

On February 29, 2024, OWCP issued a preliminary overpayment determination, finding that an overpayment of compensation in the amount of \$61,051.79, had been created for the period May 15, 2020 through January 27, 2024, because appellant had received concurrent benefits under both FECA and SSA without the mandatory offset being applied. It found that he was without fault in the creation of the overpayment, requested that he submit a completed overpayment recovery questionnaire (Form OWCP-20) to determine a reasonable recovery method, and advised that he could request waiver of recovery of the overpayment. OWCP further requested that appellant provide 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 noted that under 20 C.F.R. § 10.438, failure to submit the requested information within 30 days would result in the denial of waiver and no further request for waiver would be considered until the requested information was provided. Additionally, OWCP provided an overpayment action request form and 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 March 26, 2024, appellant requested a decision on the written evidence before a representative of OWCP's Branch of Hearings and Review. He submitted a completed Form OWCP-20, wherein he reported monthly income totaling \$4,420.00 and monthly expenses totaling \$3,073.66. Appellant also reported total assets of \$865,303.86. He provided supporting financial documentation.

By decision dated May 1, 2024, OWCP's hearing representative finalized the preliminary overpayment determination, finding that appellant had received an overpayment of compensation in the amount of \$61,051.79, for the period May 15, 2020 through January 27, 2024, because he concurrently received SSA age-related retirement benefits and FECA wage-loss compensation, without an appropriate offset. The decision found that appellant 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 \$962.60 from his continuing compensation payments every 28 days.

On May 22, 2024, OWCP referred appellant, along with the case record, a statement of accepted facts (SOAF), and a series of questions to Dr. Knute C. Buehler, a Board-certified orthopedic surgeon, for a second opinion examination with regard to the status of any employment-related conditions and whether the total knee arthroplasty was medically necessary and appropriate.

In a June 20, 2024 report, Dr. Buehler recounted appellant's medical history and physical examination findings. He related that appellant had arthritic symptoms of both knees, right being more symptomatic than left, which corresponded to objective findings of focal tenderness over the medial compartment of both knees and decreased right knee range of motion. Dr. Buehler noted objective evidence of significant bilateral knee osteoarthritis based on radiologist reading of radiographs and MRI scans of both knees. He opined that there was clear evidence of injury to both knees associated with the March 30, 2020 work incident. Dr. Buehler explained that appellant had accepted conditions of bilateral knee medial meniscus tear, which has a known association with accelerating knee osteoarthritis, that appellant had accepted conditions of bilateral post-traumatic knee osteoarthritis associated with the March 30, 2020 work incident, and there was objective evidence of these conditions on reports of diagnostic imaging. He advised that appellant would benefit from additional treatment of his osteoarthritis to include weight reduction, anti-inflammatory medications, and intraarticular injections either with corticosteroids or visco-supplementation. Dr. Buehler opined that the proposed right total knee arthroplasty was not medically necessary or currently appropriate, as appellant had not had sufficient nonoperative treatment. He explained that when appellant exhausted these treatment modalities, he would be a candidate for right knee arthroplasty.

By decision dated August 2, 2024, OWCP denied authorization for the right total knee arthroplasty, finding that appellant had not submitted evidence establishing that this procedure was medically necessary.

LEGAL PRECEDENT -- ISSUE 1

Section 8102(a) of FECA³ 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 of FECA defines the limitations on the right to receive compensation benefits.⁵ Section 8116(a) provides that, while an employee is receiving workers' compensation benefits, he or she may not receive salary, pay, or remuneration of any type.

Section 10.421(d) of OWCP's implementing regulations requires OWCP to reduce the amount of compensation by the amount of any SSA age-related retirement benefits that are attributable to the employee's federal service.⁶ 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.⁷

ANALYSIS -- ISSUE 1

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of \$61,051.79, for the period May 15, 2020 through January 27, 2024, for which he was without fault, because he concurrently received FECA wage-loss compensation and SSA age-related retirement benefits, without an appropriate offset.

In its May 1, 2024 decision, OWCP found that an overpayment of compensation was created for the period May 15, 2020 through January 27, 2024. The overpayment was based on the evidence received from SSA with respect to age-related retirement benefits paid to appellant. A claimant cannot receive both FECA compensation for wage loss and SSA age-related retirement benefits attributable to federal service for the same period.⁸ The information provided by SSA indicated that appellant received SSA age-related retirement benefits that were attributable to federal service during the period May 15, 2020 through January 27, 2024. The case record establishes that OWCP paid appellant wage-loss compensation for the same periods; however, no appropriate offset was taken. Fact of overpayment is therefore established.

To determine the amount of the overpayment, the portion of the SSA benefits that were attributable to federal service must be calculated. The SSA provided the SSA rate with FERS, and without FERS, for specific periods commencing May 15, 2020 through January 27, 2024. In its February 29, 2024 preliminary overpayment determination, OWCP calculated the amount of

³ *Supra* note 1.

⁴ 5 U.S.C. § 8102(a).

⁵ *Id.* at § 8116.

⁶ 20 C.F.R. § 10.421(d); *see S.M.*, Docket No. 17-1802 (issued August 20, 2018).

⁷ FECA Bulletin No. 97-09 (issued February 3, 1997); *see also N.B.*, Docket No. 18-0795 (issued January 4, 2019).

⁸ 5 U.S.C. § 8116(d)(2); *see L.W.*, Docket No. 19-0787 (issued October 23, 2019); *J.T.*, Docket No. 18-1791 (issued May 17, 2019).

overpayment by determining the difference between the SSA amount with and without FERS for each period and multiplying the daily offset amount by the number of days in each period, to find a total overpayment of \$61,051.79. The Board has reviewed OWCP's calculation of benefits received by appellant for the period May 15, 2020 through January 27, 2024, and finds that an overpayment of compensation in the amount of \$61,051.79 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.⁹ The waiver or refusal to waive an overpayment of compensation by OWCP is a matter that rests within OWCP's discretion pursuant to statutory guidelines.¹⁰

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.¹¹ An individual is deemed to need substantially all of his or her current income to meet current ordinary and necessary living expenses if monthly income does not exceed monthly expenses by more than \$50.00.¹² 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.¹³ 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.¹⁴

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.¹⁵

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.

⁹ *Id.* at § 8129(a)-(b).

¹⁰ A.C., Docket No. 18-1550 (issued February 21, 2019); *see Robert Atchison*, 41 ECAB 83, 87 (1989).

¹¹ 20 C.F.R. § 10.436(a)(b).

¹² Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Final Overpayment Determinations*, Chapter 6.400.4a(3) (September 2020).

¹³ *Id.* at Chapter 6.400.4a(2).

¹⁴ *Id.* at Chapter 6.400.4b(3).

¹⁵ 20 C.F.R. § 10.437(a)(b).

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

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 recovery of the overpayment would defeat the purpose of FECA, or be against equity and good conscience.¹⁷ In order to establish that repayment of the overpayment would defeat the purpose of FECA, appellant must show that he requires substantially all of his income to meet current ordinary and necessary living expenses, and that his assets do not exceed the established limit as determined by OWCP procedures.¹⁸

On the Form OWCP-20, appellant reported total assets of \$865,303.86. As noted above, in determining whether recovery of the overpayment would defeat the purpose of FECA, OWCP considers whether assets exceed a resource base of \$6,200.00 for an individual or \$10,300.00 for an individual with a spouse or one dependent, plus \$1,200.00 for each additional dependent.¹⁹ Because appellant's assets exceed the allowable resource base, the Board finds that appellant has not established that waiver of recovery would defeat the purpose of FECA.²⁰ Accordingly, it is not necessary for OWCP to consider whether he needs substantially all of his current income to meet ordinary and necessary living expenses.²¹

The Board also finds that appellant has not established that he was entitled to waiver on the basis that recovery of the overpayment would be against equity and good conscience. Appellant has not shown, for the reasons noted above, that he would experience severe financial hardship in attempting to repay the debt, or that he has relinquished a valuable right or changed his position for the worse in reliance on the payments which created the overpayment.²²

¹⁶ *Id.* at § 10.438(a); *M.S.*, Docket No. 18-0740 (issued February 4, 2019).

¹⁷ 5 U.S.C. § 8129.

¹⁸ *Supra* note 6 at § 10.436.

¹⁹ *Supra* note 13.

²⁰ *S.W.*, Docket No. 20-0363 (issued November 23, 2020); *H.F.*, Docket No. 17-0101 (issued September 5, 2017).

²¹ *See J.R.*, Docket No. 24-0852 (issued November 14, 2024); *S.R.*, Docket No. 20-1416 (issued September 8, 2020); *M.H.*, Docket No. 19-1497 (issued September 9, 2020).

²² *See B.C.*, Docket No. 19-0629 (issued June 2, 2020); *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.²³

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.²⁴ Section 10.441(a) of OWCP's implementing regulations provides that if 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.²⁵ 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.²⁶

ANALYSIS -- ISSUE 3

The Board finds that OWCP improperly required recovery of the overpayment by deducting \$962.60 from appellant's continuing compensation payments every 28 days.

As explained above, 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.²⁷ In this case, appellant responded to the preliminary overpayment determination by submitting a completed Form OWCP-20, reporting his income, assets, and expenses. However, OWCP required recovery at a rate based on an individual who did not provide any financial information. The Board, therefore, finds that OWCP abused its discretion by deducting \$962.60 from appellant's continuing compensation payments, every 28 days.²⁸

²³ *S.W.*, *supra* note 20.

²⁴ *See P.G.*, Docket No. 22-1073 (issued December 28, 2022); *C.A.*, Docket No. 18-1284 (issued April 15, 2019); *Lorenzo Rodriguez*, 51 ECAB 295 (2000); *Albert Pineiro*, 51 ECAB 310 (2000).

²⁵ 20 C.F.R. § 10.441(a).

²⁶ *Id.*

²⁷ Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Initial Overpayment Actions*, Chapter 6.500.8c(1) (September 2018).

²⁸ *See J.R.*, *supra* note 21; *R.M.*, Docket No. 19-1508 (issued July 6, 2022); *L.M.*, Docket No. 21-0455 (issued February 28, 2022); *M.W.*, 20-1107 (issued March 17, 2021).

LEGAL PRECEDENT -- ISSUE 4

Section 8103(a) of FECA²⁹ provides that the United States shall furnish to an employee who is injured while in the performance of duty, the services, appliances, and supplies prescribed by or recommended by a qualified physician, which OWCP considers likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of the monthly compensation.³⁰ In interpreting this section of FECA, the Board has recognized that OWCP has broad discretion in determining whether a particular type of treatment is likely to cure or give relief.³¹ The only limitation on OWCP's authority is that of reasonableness.³²

While OWCP is obligated to pay for treatment of employment-related conditions, appellant has the burden of proof to establish that the expenditures were incurred for treatment of the effects of an employment-related injury or condition.³³ Proof of causal relationship in a case such as this must include supporting rationalized medical evidence.³⁴ In order for a surgical procedure to be authorized, appellant must establish that the procedure was for a condition causally related to the employment injury and that the procedure was medically warranted.³⁵ Both of these criteria must be met in order for OWCP to authorize payment.³⁶

Abuse of discretion is shown through proof of manifest error, clearly unreasonable exercise of judgment, or actions taken which are contrary to both logic and probable deductions from established facts. It is not enough to merely show that the evidence could be construed so as to produce a contrary factual conclusion.³⁷

²⁹ *Supra* note 1.

³⁰ *See S.T.*, Docket No. 24-0571 (issued June 14, 2024); *C.L.*, Docket No. 24-0249 (issued April 15, 2024); *J.K.*, Docket No. 20-1313 (issued May 17, 2021); *Thomas W. Stevens*, 50 ECAB 288 (1999).

³¹ *S.T.*, *id.*; *C.L.*, *id.*; *R.C.*, Docket No. 18-0612 (issued October 19, 2018); *W.T.*, Docket No. 08-812 (issued April 3, 2009).

³² *S.T.*, *id.*; *C.L.*, *id.*; *D.C.*, Docket No. 18-0080 (issued May 22, 2018); *Mira R. Adams*, 48 ECAB 504 (1997).

³³ *S.T.*, *id.*; *C.L.*, *id.*; *R.M.*, Docket No. 19-1319 (issued December 10, 2019); *J.T.*, Docket No. 18-0503 (issued October 16, 2018); *Debra S. King*, 44 ECAB 203, 209 (1992).

³⁴ *S.T.*, *id.*; *C.L.*, *id.*; *K.W.*, Docket No. 18-1523 (issued May 22, 2019); *C.L.*, Docket No. 17-0230 (issued April 24, 2018); *M.B.*, 58 ECAB 588 (2007); *Bertha L. Arnold*, 38 ECAB 282 (1986).

³⁵ *S.T.*, *id.*; *C.L.*, *id.*; *T.A.*, Docket No. 19-1030 (issued November 22, 2019); *Zane H. Cassell*, 32 ECAB 1537, 1540-41 (1981); *John E. Benton*, 15 ECAB 48, 49 (1963).

³⁶ *S.T.*, *id.*; *C.L.*, *id.*; *J.L.*, Docket No. 18-0990 (issued March 5, 2019); *R.C.*, 58 ECAB 238 (2006); *Cathy B. Millin*, 51 ECAB 331, 333 (2000).

³⁷ *S.T.*, *id.*; *C.L.*, *id.*; *D.S.*, Docket No. 18-0353 (issued February 18, 2020); *E.L.*, Docket No. 17-1445 (issued December 18, 2018); *L.W.*, 59 ECAB 471 (2008); *P.P.*, 58 ECAB 673 (2007); *Daniel J. Perea*, 42 ECAB 214 (1990).

ANALYSIS -- ISSUE 4

The Board finds that OWCP did not abuse its discretion by denying appellant's request for authorization for right total knee arthroscopy.

Appellant provided a September 7, 2022 report from his treating physician, Dr. Okamura, who related that a December 14, 2021 MRI scan of the right knee revealed a meniscal tear and cartilage loss. Dr. Okamura diagnosed right knee meniscal tears with arthritis and left knee meniscus tears with arthritis. He recommended right total knee replacement and explained that the meniscal tears were contributing to the progression of arthritis.

OWCP referred the request for right total knee arthroplasty to the DMA, Dr. Harris, for review. The DMA opined that there was insufficient information in the case file to authorize the requested surgery as the report from Dr. Okamura did not document failure of conservative care, BMI, and diagnostic studies demonstrating the extent of osteoarthritis and joint space loss.

OWCP then referred appellant for a second opinion evaluation with Dr. Buehler. In a June 20, 2024 report, Dr. Buehler noted objective evidence of significant bilateral knee osteoarthritis based on radiographs and MRI scans of both knees. However, Dr. Buehler opined that the proposed right knee arthroplasty was not medically necessary or currently appropriate, as appellant had not had sufficient nonoperative treatment to include weight reduction, anti-inflammatory medications, and intraarticular injections with corticosteroids or visco-supplementation. He explained that appellant would be a candidate for right knee arthroplasty if he had exhausted his conservative treatment modalities.

As noted, the only limitation on OWCP's authority is approving or disapproving service under FECA is one of reasonableness.³⁸ Dr. Buehler, the second opinion physician, advised that it was premature to authorize the requested surgery as appellant had not had sufficient nonoperative treatment. As his report was sufficiently reasoned, OWCP properly accorded the weight of the medical evidence to Dr. Buehler. Thus, the Board finds that OWCP did not abuse its discretion in denying authorization for the requested procedure.³⁹

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that an overpayment of compensation was created in the amount of \$61,051.79, for the period May 15, 2020 through January 27, 2024, for which appellant was without fault, as he concurrently received SSA age-related retirement benefits and FECA wage-loss compensation, without an appropriate offset. The Board further finds that OWCP properly

³⁸ See *W.B.*, Docket No. 23-0935 (issued January 4, 2024); *B.I.*, Docket No. 18-0988 (issued March 13, 2020); *W.M.*, Docket No. 18-0957 (issued October 15, 2018); *Daniel J. Perea*, *id.*

³⁹ See *K.L.*, Docket No. 23-0978 (issued March 13, 2024); *D.S.*, *supra* note 37.

denied waiver of recovery of the overpayment, but OWCP improperly required recovery by deducting \$962.60 from appellant's continuing compensation payments every 28 days. The Board also finds that OWCP did not abuse its discretion by denying appellant's request for authorization for right total knee arthroscopy.

ORDER

IT IS HEREBY ORDERED THAT the May 1, 2024 decision of the Office of Workers' Compensation Programs is affirmed in part and reversed in part. The August 2, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 21, 2025
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