

OWCP and Social Security, Part 1

Wage-loss compensation and regular age-related Social Security retirement income



Regional Workers' Compensation Assistant Coby Jones

Allowing the Department of Labor (DOL)/Office of Workers' Compensation Programs (OWCP) to coordinate and share data with the Social Security Administration (SSA) was one of the few proposals that the NALC supports from the May 6 House Education and the Workforce Subcommittee on Workforce Protections hearing on "FECA Reform and Oversight, Prioritizing Workers, Saving Taxpayer Dollars." Provided there are strong privacy protocols and

protections in place, this proposal would go a long way toward preventing overpayments when injured letter carriers are receiving wage-loss compensation (WLC) and Social Security payments at the same time.

While some at the hearing suggested that the receipt of dual payments under OWCP and Social Security—without the appropriate offsets in place—represented fraud, it's been our experience in almost every case that the recipients of the dual payments are simply unaware of the potential offsets that may apply. Still, it's a huge problem. Dual payments of Social Security age-related benefits¹ and wage-loss compensation generate more overpayments within OWCP than any other source. And because of the lack of coordination between the two agencies, it can take years for the overpayments to be noticed, creating significant debt for injured workers. It is not unusual for the resulting indebtedness to be tens of thousands of dollars, and it sometimes even reaches six figures. This creates huge hardships for working families who have to pay off this debt.

The SSA refers to regular age-related Social Security benefits as "retirement benefits" regardless of whether the recipient has actually retired or is still working. This is also true of individuals on OWCP WLC who have not retired. Injured workers on OWCP WLC may receive Social Security retirement benefits concurrently with

WLC, but OWCP is required to offset (subtract out) that portion of the Social Security benefit attributable to their federal service. The offset applies only to Federal Employees Retirement System (FERS) employees because Civil Service Retirement System (CSRS) employees do not receive any Social Security retirement benefits attributable to their federal service.²

The FECA itself at 5 U.S.C. 8116 (d) requires OWCP to apply this offset:

[I]n the case of benefits received on account of age or death under title II of the Social Security Act, compensation payable under this subchapter based on the Federal service of an employee shall be reduced by the amount of any such social security benefits payable that are attributable to Federal service of that employee[.]

It should be noted that 5 U.S.C. 8116 (d) also makes clear that while the Social Security retirement benefit offset applies to WLC, it does not apply to schedule awards for permanent impairment. Injured employees can receive both Social Security retirement benefits and schedule awards with no offsets.³

The amount of the offset to be subtracted can vary tremendously depending on the length of the employee's federal service, ranging from a small portion of the Social Security retirement benefit of employees with short service to almost all of the benefit for employees with decades of service. And because it can take OWCP years to discover the overpayment, if an injured employee is on OWCP WLC and is either currently receiving or will be receiving SSA benefits, they should send a letter advising OWCP of this fact, along with a copy of their SSA benefit statement. The sooner OWCP applies the offset, the lower the eventual overpayment will be.

Most of our members are blindsided when OWCP eventually discovers the dual payments. Fraud certainly never enters their minds. They merely believe that they are receiving a benefit toward which they

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¹ This month's column focuses on overpayments involving the receipt of WLC concurrently with regular age-related Social Security retirement income. The receipt of WLC concurrently with Social Security disability insurance (SSDI) may also result in offsets and overpayments. While OWCP applies the offsets and processes overpayments involving WLC and Social Security retirement benefits, the SSA applies the offsets and processes overpayments in cases involving WLC and SSDI. This will be discussed next month.

² The same holds true for a survivor of a FERS employee who is receiving Social Security spousal benefits. Their OWCP benefits for the death of an employee will be reduced by the amount of Social Security attributable to the employee's federal service.

³ While injured workers on SSDI can receive both a schedule award and SSDI concurrently, the SSA will apply an offset to the SSDI based on the schedule award. Often, it amounts to most of the schedule award. Because of this, the NALC advises its members on SSDI to postpone applying for schedule awards until they are no longer on SSDI.

you want to make a difference, we will train and utilize you.

Does this sound like something you'd like to do? Talk to your branch president. After you've talked to them, either of you may contact me at our office number: 734-999-8080.

Ronald Zalewski

New York

Another NYSALC convention in the books—that's 66 of 'em, to be exact. We had 222 delegates from 21 New York state and Puerto Rico branches gathered for two days in Syracuse at the Downtown Syracuse Marriott.

We were joined by NALC President Brian Renfro, NALC Director of Life Insurance Jim Yates, NALC Trustee Charlie Heege, Region 11 NBA Mark Camilli, Region 15 NBA Bruce Didrikson, Region 11 RAAs Dave Kennedy and Mike Brim, Region 15 RAA Orlando Gonzalez, RWCA Dave Picconi, Retired Region 11 NBA Bill Cooke, Retired Region 11 RAA John Walsh, and Past Executive Board members Walter Barton and Larry Kania.

We passed four resolutions and heard firsthand from President Renfro about the problems and threats to our union initiated by the Trump administration, and the explicit failure of the Board of Governors with the new PMG. We were also addressed by LPO Ashmon, had a basic overview of the Emergency Response Team, and had specific breakout training sessions for both Regions 11 and 15. We all took time to respect the passing of Dave Barbuzzi, RWCA for Region 11, and a special acclamation for past LCCL Rabbit (Robert) Riley, whose political acumen directly intertwined us with now-Sen. Kirsten Gillibrand. We were all installed by Director of Life Insurance Yates on Tuesday.

The event was well executed, and I applaud Tom Dlugolenski and the officers of Branch 134 for an exceptional job. My thanks go to the NYSALC officers and executive board for an exemplary experience (special note of V.P. Kenny Montgomery, Recording Secretary Jay Jackson, and Executive Board Member Pascual Ortiz for a fantastic job with the resolutions) and I am

extremely proud that we were all elected by acclamation.

Next stop: NYSALC's 67th biennial convention in the Hilton/Huntington on Long Island in 2027.

George T. Mangold

Tennessee

Hello, sisters and brothers! World War II German General Erwin Rommel was quoted as saying, "The best form of welfare for soldiers is first-rate training." Stewards are soldiers and are entitled to receive the best training available.

Recently, Region 8 NBA Steve Lassan announced steward training, which will be held on Sept. 14 and end on Sept. 19. This is an outstanding class and is open to everyone who wants to brush up or step up and lead their branch in representing their fellow carriers.

One underestimated subject is effective writing. As stewards, one needs to know how to write a "Block 17 – Union's statement" as well as a lawyer and support your contentions with exhibits/evidence.

Along the same line, stewards should provide legislative guidance to their carriers concerning ongoing postal issues. How do you do this? Contact your branch and find out who your legislative liaison officer is and get updated information on bills that are passing through Congress.

Nalc.org has its Government Affairs site, which includes the Legislative Action Center that enables one to send a cookie-cutter letter to our representatives. Stewards can use this site and modify this letter to better reflect what is going on in the communities and workroom floor issues of their carriers. Stewards must educate themselves to educate fellow carriers, who educate members of Congress about issues that affect themselves and their families. Use this form letter and modify it to provide information to your members of Congress to use in their arguments to support NALC postal issues (e.g., anti-privatization).

The best format for letter writing to your rep-

resentatives is a handwritten letter! It packs a punch because it's personal. Get personal with your representatives! After all, they represent you and the community you live in.

Remember, there will be more classes.

Tony Rodriguez

Texas

July was a noteworthy month in Texas. The 112th Texas State Association of Letter Carriers convention took place July 28-30 in Austin. More than 400 delegates participated in the event, demonstrating strong solidarity and unity.

Guest speakers included Reps. Joaquin Castro (D-20), Greg Casar (D-35), and Lloyd Doggett (D-37). The speakers did not stop there; state Rep. "Lulu" Flores (D-51) joined us at the "Hell no" rally held Tuesday morning at the Texas Capitol in downtown Austin. Rep. Flores was not originally scheduled to address the rally; however, upon noticing the gathering from her Capitol office, she chose to join and participate. National President Brian Renfro spoke to the delegates at the rally and again on the convention floor after the event. Thanks for joining us, Brian.

Congratulations to all the new TSALC Board members: Vice President Ryan Raeke of Branch 1227, District 1 Raque Salinas of Branch 283, District 2 Trevor Haas of Branch 132, and District 3 Joshua Smith of Branch 2589.

Texas Gov. Greg Abbott convened a special session at the Texas Capitol, requesting that the Texas Legislature undertake redistricting of the state's congressional map. Texas Democratic state representatives left the Capitol and traveled to other states in protest, drawing widespread attention in Texas and other Democratic-led states. This situation is expected to develop further in the coming months. Ongoing monitoring of any changes will continue.

Thank you for all your support, my brothers and sisters. Let's continue to fight.

Everett Wyllie

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have been making payments their entire working life. While this belief is understandable, there are practical policy considerations that underlie the requirement of 5 U.S.C. 8116 (d). First, it puts FERS employees on the same footing as CSRS employees who receive no Social Security benefits attributable to their federal service.

In addition, the Social Security retirement benefit is one of the three components of a FERS retirement and employees must elect between FECA WLC and their federal retirement benefit. Here is how the *FECA PM 6-0200(h)* explains it, referencing a decision from the

Employees' Compensation Appeals Board:

The portion of SSA benefits he earned as a federal employee as part of his FERS retirement package and the receipt of benefits under FECA and FERS benefits concurrently is a prohibited dual benefit.

Finally, the dual receipt of SSA retirement benefits and OWCP WLC without the offset applied creates a possible disincentive to either return to work or take the FERS retirement benefit.

Next month's column will continue the discussion on the interaction of OWCP and Social Security benefits.