

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**B.B., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Nashua, NH, Employer**

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**Docket No. 08-1079  
Issued: May 8, 2009**

*Appearances:*

*Lawrence Vama, for the appellant*

*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

DAVID S. GERSON, Judge  
COLLEEN DUFFY KIKO, Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On March 4, 2008 appellant, through her representative, filed a timely appeal from the September 26, 2007 merit decision of the Office of Workers' Compensation Programs, which suspended her compensation. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the merits of the case.<sup>1</sup>

**ISSUE**

The issue is whether the Office properly suspended appellant's compensation for failing to submit a Form CA-1032, as requested.

**FACTUAL HISTORY**

On November 29, 2002 appellant, then a 35-year-old mail handler, sustained an injury in the performance of duty when the vehicle on which she was sitting was struck from behind by a mail container. The Office accepted her claim for cervical strain, right shoulder strain, thoracic

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<sup>1</sup> The Office's September 26, 2007 decision is the only Office decision the Board may review.

strain and lumbar strain. Appellant received compensation for wage loss. After she returned to work on February 28, 2006 in a modified position for 30 hours a week, the Office paid compensation for partial disability based on her actual earnings.

On February 5, 2007 the Office informed appellant that federal regulations required her to make an affidavit of any earnings or employment during the previous year, and that a Form CA-1032 was enclosed for that purpose. It notified appellant that she had to completely answer all questions and return the statement within 30 days, otherwise her benefits would be suspended.

In a decision dated September 26, 2007, the Office suspended appellant's compensation for failing to submit the Form CA-1032, as requested. It noted that appellant did not reply to its February 5, 2007 correspondence.

### **LEGAL PRECEDENT**

Section 8106(b) of the Federal Employees' Compensation Act authorizes the Secretary of Labor to "require a partially disabled employee to report his earnings from employment or self-employment, by affidavit or otherwise, in the manner and at the times the Secretary specifies." Pursuant to this authority, as well as her authority under 5 U.S.C. § 8149 to "prescribe rules and regulations necessary for the administration and enforcement" of the Act, the Secretary has promulgated the following regulation at 20 C.F.R. § 10.528:

"[The Office] periodically requires each employee who is receiving compensation benefits to complete an affidavit as to any work, or activity indicating an ability to work, which the employee has performed for the prior 15 months. If an employee who is required to file such a report fails to do so within 30 days of the date of the request, his or her right to compensation for wage loss under 5 U.S.C. 8105 [total disability] or 8106 [partial disability] is suspended until [it] receives the requested report. At that time, [the Office] will reinstate compensation retroactive to the date of suspension if the employee remains entitled to compensation."

### **ANALYSIS**

On February 5, 2007 the Office provided appellant with a Form CA-1032 and explained that federal regulations required her to complete it. It properly notified appellant that if she did not completely answer all questions and return the statement within 30 days, her benefits would be suspended.

Notwithstanding notice of these consequences, appellant did not return the form within 30 days. Indeed, by September 26, 2007, more than seven months had passed and the Office still had received no response. The Board finds, therefore, that it properly suspended appellant's right to compensation for wage loss under section 10.528 of the regulations. The Board will affirm the Office's September 26, 2007 decision.

**CONCLUSION**

The Board finds that the Office properly suspended appellant's compensation for failing to submit a Form CA-1032, as requested.

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 26, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 8, 2009  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board