

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LEANNE A. BAKER and U.S. POSTAL SERVICE,
POST OFFICE, Trenton, N.J.

*Docket No. 97-1386; Submitted on the Record;
Issued January 20, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether the Office of Workers' Compensation Programs properly suspended appellant's benefits as of February 4, 1996 for failure to submit an addendum Form CA-1032.

The Board has duly reviewed the case record and finds that the Office did properly suspend appellant's benefits in this case.

In the present case, on October 20, 1995 appellant completed a Form CA-1032 wherein she indicated that she had engaged in self-employment as a real estate broker during the past 15 months. Appellant did not indicate her rate of pay or amount of actual earnings. The Form CA-1032 appellant completed advised appellant that the information requested in the form would be used to determine her qualification for continued benefits or to determine whether an adjustment in benefits may be warranted. Appellant was advised that the statement must be returned to the Office within 30 days or benefits would be suspended in accordance with 20 C.F.R. § 10.125 and that if she failed to answer all questions on the statement fully and accurately, her compensation benefits may be suspended. A report of telephone contact indicates that appellant was called on November 9, 1995 by the Office claims examiner and advised to submit an addendum to CA-1032 providing the amount of commission received. On February 8, 1996 appellant was advised that her benefits were suspended as of February 4, 1996 because she had not submitted an addendum to the Form CA-1032 as requested on November 9, 1995 detailing her earnings from self-employment.

Pursuant to section 8106(b) of the Act,¹ the Secretary of Labor may 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. The employee is required to include in the affidavit or report the value of housing, board, lodging, and other advantages

¹ 5 U.S.C. § 8106.

which are part of his earnings in employment or self-employment and which can be estimated in money.

The Office's regulations further provide in pertinent part at 20 C.F.R. § 10.125(a) as follows:

“While in receipt of compensation for partial total disability, and unless found by the Office to be unnecessary or inappropriate, an employee shall periodically be required to submit an affidavit or other report of earnings from employment or self-employment on either a part-time or full-time basis. If an employee when required, fails within 30 days of the date of the request to submit such an affidavit or report, the employee's right to compensation for wage loss under section 8105 or 8106 is suspended until such time as the requested affidavit or report is received by the Office, at which time compensation will be reinstated retroactive to the date of suspension.”

As appellant noted on the Form CA-1032 she completed on October 25, 1995 that she had self-employment, but she failed to advise the Office of the amount of earnings from such employment, as required, the Office properly suspended appellant's benefits as of February 4, 1996.²

The decision of the Office of Workers' Compensation Programs dated February 4, 1996 is hereby affirmed.

Dated, Washington, D.C.
January 20, 1998

George E. Rivers
Member

David S. Gerson
Member

Bradley T. Knott
Alternate Member

² The Board notes that while subsequent correspondence has been submitted to the Office pertaining to the issue of appellant's earnings, such materials were not before the Office at the time of its decision. The Board is precluded from reviewing new evidence on appeal, which was not before the Office at the time of its final decision, *see* 20 C.F.R. § 501.2(c) .