

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of THURMON CRAWFORD and DEPARTMENT OF DEFENSE,  
DEFENSE COMMISSARY AGENCY, MAXWELL AIR FORCE BASE, AL

*Docket No. 00-1920; Submitted on the Record;  
Issued May 7, 2001*

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DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,  
PRISCILLA ANNE SCHWAB

The issue is whether the Office of Workers' Compensation Programs properly suspended appellant's compensation benefits under 5 U.S.C. § 8123(d).

The Office accepted appellant's claim for aggravation of degenerative disc disease, herniated nucleus pulposus at L4-5, aggravation of spondylosis and aggravation of spinal stenosis at L5-S1 as work related. Appellant, a meatcutter, was placed on limited duty in September 1987. Appellant stopped working on December 15, 1987 and has not returned. The record indicates that appellant was placed on the periodic rolls for temporary total disability compensation.

By decision dated February 14, 2000, the Office suspended appellant's compensation, effective the same day, on the grounds that he had obstructed an examination under 5 U.S.C. § 8123(d).

The Board has reviewed the record and finds that the Office properly suspended appellant's compensation under section 8123(d).

Section 8123(d) of the Federal Employees' Compensation Act provides: "If an employee refuses to submit to or obstructs an examination, his right to compensation under this subchapter is suspended until the refusal or obstruction stops."<sup>1</sup>

In this case, appellant was advised by letter dated December 14, 1999 that an appointment with Dr. Ronald G. Corley had been made for January 10, 2000 at 2:05 p.m. The letter notified appellant of his rights and responsibilities in keeping the scheduled appointment, the provisions of section 8123(d), and the subsequent effect on compensation if he refused to

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<sup>1</sup> 5 U.S.C. § 8123(d).

submit to or obstructed the scheduled examination. On January 25, 2000 the physician's office indicated that appellant did not show up for the scheduled appointment.

By letter dated January 25, 2000, the Office noted that appellant had been referred for an examination by Dr. Corley on January 10, 2000 at 2:05 p.m., but the appointment had to be rescheduled to January 24, 2000 at 1:45 p.m. due to the unavailability of x-rays. The Office again notified appellant of the provisions of section 8123(d), and allowed appellant 15 days to provide a written explanation for his reasons for failing to keep the appointment. Appellant thus had notice and an opportunity to respond prior to suspension of benefits on February 14, 2000.<sup>2</sup> There is no indication that appellant provided an explanation prior to the February 14, 2000 decision.<sup>3</sup> Accordingly, the Board finds that the Office properly suspended appellant's compensation effective February 14, 2000.

The decision of the Office of Workers' Compensation Programs dated February 14, 2000 is affirmed.

Dated, Washington, DC  
May 7, 2001

David S. Gerson  
Member

Bradley T. Knott  
Alternate Member

Priscilla Anne Schwab  
Alternate Member

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<sup>2</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Developing and Evaluating Medical Evidence*, Chapter 2.810.14 (November 1998).

<sup>3</sup> The record contains a letter from appellant indicating a change in mailing address which the Office received March 6, 2000. As this information was not before the Office at the time of its final decision, the Board is precluded from reviewing this evidence. 20 C.F.R. § 501.2(c).