



On November 3, 2008 the Office sent appellant a Form CA-1032 for completion to his address of record in Dallas.<sup>1</sup> It informed him that federal regulations required him to make an affidavit of any earnings or employment during the previous year and that the form was enclosed for that purpose. The Office notified appellant that he had to completely answer all questions and return the statement within 30 days, otherwise his benefits would be suspended. Appellant did not respond.

On December 11, 2008 the Office sent appellant another Form CA-1032 to complete. It again advised him that federal regulations required him to make an affidavit of any earnings or employment and requested information with regard to wages. The Office reiterated that appellant had to completely answer all questions and return the statement within 30 days, otherwise his benefits would be suspended. No response was received. This form was also sent to his address of record.

By decision dated April 28, 2009, the Office suspended appellant's compensation benefits, effective April 12, 2009, for failing to submit the CA-1032 form as requested. It noted that appellant did not respond to its requests for completion of the form. The Office noted that, when appellant completed the Form CA-1032, his compensation benefits would be restored retroactively to the date they were suspended.

### **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 specified. Pursuant to this authority, as well as her authority under 5 U.S.C. § 8149 to prescribe the rules and regulations necessary for the administration and enforcement of the Act, the Secretary promulgated the following regulations 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 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 November 3 and December 11, 2008, the Office provided appellant with a Form CA-1032 and notified him that federal regulations required him to complete the forms and answer questions concerning any employment and earnings for the prior year. It properly notified

---

<sup>1</sup> The record reflects that by letter dated October 29, 2007 appellant notified the Office of his address change in Dallas. Between February 9, 2004 to January 8, 2008, appellant completed and returned six CA-1032 forms as requested.

appellant that if he did not completely answer all questions and return the statement within 30 days, his benefits would be suspended. The forms were sent to appellant's address of record.<sup>2</sup>

Notwithstanding such notice, appellant did not return the forms within 30 days as requested. The Board finds that the Office properly suspended his right to compensation for wage loss under section 10.528 of the implementing regulations.<sup>3</sup> The Board will affirm the Office's April 28, 2009 decision.

**CONCLUSION**

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

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 28, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 22, 2010  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

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

---

<sup>2</sup> Under the mailbox rule, it is presumed, absent evidence to the contrary, that notice mailed to an individual in the ordinary course of business was received by that individual. The presumption arises when the record shows that the notice was properly addressed and mailed. *See Levi Drew, Jr.*, 52 ECAB 442 (2001); *Kimberly A. Raffle*, 56 ECAB 243 (1999).

<sup>3</sup> *See F.D.*, Docket No. 08-2499 (issued September 9, 2009).