

OWCP accepted the claim for a lumbar strain and appellant returned to a light-duty position. On October 16, 2008 appellant filed a claim for compensation (Form CA-7), commencing September 6, 2005, for loss of premium pay.

Appellant began receiving compensation benefits. On October 1, 2009 and October 10, 2010 OWCP requested that he complete a Form EN1032 regarding any employment activities for the prior 15 months, information regarding dependents and receipt of any other income or benefits.² Appellant submitted completed EN1032 forms on November 2, 2009 and November 1, 2010.

By letters dated October 3 and November 3, 2011, OWCP again requested that appellant submit an EN1032 form. It advised him to submit the form within 30 days, and noted that otherwise his benefits could be suspended pursuant to 20 C.F.R. § 10.528. Appellant did not respond.

In a decision dated December 8, 2011, OWCP suspended appellant's compensation for failure to submit the requested information.

LEGAL PRECEDENT

FECA authorizes the Secretary of Labor to require a partially disabled employee to report his or her earnings from employment or self-employment, by affidavit or otherwise, in the manner and at the times the Secretary specifies.³

Under section 10.528 of OWCP's implementing federal regulations, an employee in receipt of compensation benefits must complete an affidavit as to any work or activity indicating an ability to work which the employee has performed for the prior 15 months.⁴ 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 is suspended until OWCP receives the requested report. At that time, OWCP will reinstate compensation retroactive to the date of suspension if the employee remains entitled to compensation.⁵

ANALYSIS

OWCP requested that appellant submit an EN1032 form with respect to any employment activity performed for the prior 15 months. It requested the information by letters dated October 3 and November 3, 2011 and advised appellant to submit the form within 30 days or his compensation could be suspended. The record does not establish that appellant responded prior to December 8, 2011.

² The form and cover letter are also referred to as CA-1032 form.

³ 5 U.S.C. § 8106(b).

⁴ 20 C.F.R. § 10.528.

⁵ *Id.*; see also 20 C.F.R. § 10.525.

Based on the evidence of record,⁶ OWCP properly suspended appellant's compensation on December 8, 2011 pursuant to 20 C.F.R. § 10.528.⁷

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that OWCP properly suspended appellant's compensation for failure to timely submit the requested evidence as to employment activity.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated December 8, 2011 is affirmed.

Issued: July 17, 2012
Washington, DC

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

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

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

⁶ The Board is limited to review of evidence that was before OWCP at the time of the December 8, 2011 decision. 20 C.F.R. § 501.2(c)(1). Any new evidence submitted on appeal cannot be considered by the Board on this appeal.

⁷ There are OWCP decisions dated January 30 and February 21, 2012 on the suspension issue. It is well established that the Board and OWCP do not have concurrent jurisdiction over the same case, and OWCP decisions that change the status of the decision on appeal are null and void. *Douglas E. Billings*, 41 ECAB 880, 895 (1990).