

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

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R.C., Appellant )  
and ) Docket No. 12-135  
DEPARTMENT OF JUSTICE, BUREAU OF ) Issued: May 11, 2012  
PRISONS, Springfield, MO, Employer )  
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)

*Appearances:*

*Appellant, pro se*

*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

RICHARD J. DASCHBACH, Chief Judge  
ALEC J. KOROMILAS, Judge  
MICHAEL E. GROOM, Alternate Judge

**JURISDICTION**

On October 24, 2011 appellant filed a timely appeal from the August 16, 2011 merit decision of the Office of Workers' Compensation Programs (OWCP) suspending his compensation. Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether OWCP properly suspended appellant's compensation, effective August 28, 2011, for failure to fully report earnings and work activity.

**FACTUAL HISTORY**

OWCP accepted that prior to October 1982 appellant, then a 60-year-old physician, sustained a work-related unspecified personality disorder. He stopped work and received compensation for periods of disability.

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

In a July 6, 2011 letter, OWCP sent appellant a (Form EN-1032) and requested that he complete the form and return it within 30 days of the date of the letter. The form, which consisted of six pages, contained questions pertaining to his employment and income for the prior 15 months.<sup>2</sup> OWCP advised appellant that if he did not submit the form within 30 days his compensation would be suspended under section 10.528 of OWCP's regulations.

On August 5, 2011 OWCP received pages two through five of a Form EN-1032 which had been completed by appellant. Pages one and six of the form were missing.<sup>3</sup>

In an August 16, 2011 decision, OWCP suspended appellant's compensation effective August 28, 2011 on the grounds that he did not fully complete and return the provided EN-1032 form within the allotted time. It noted that his response was incomplete as neither the first or last page of the EN-1032 form was received. OWCP advised appellant that if he completed and returned the missing pages (pages one and six) of the EN-1032 form his compensation would be restored retroactively to the date it was suspended.<sup>4</sup>

### **LEGAL PRECEDENT**

Section 10.528 of OWCP's regulations provide:

"OWCP 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 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."<sup>5</sup>

### **ANALYSIS**

The record establishes that appellant was directed on July 6, 2011 to complete and return an EN-1032 form which asked for information about his employment and income for the prior 15 months. Appellant did not fully complete and return the form within the 30 days allotted by OWCP. On August 5, 2011 OWCP received pages two through five of a EN-1032 form, which had been completed by him, but pages one and six were missing. Appellant had been informed of the consequences, including suspension of compensation, for not fully completing and

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<sup>2</sup> Page six of the form required the employee to provide his or her signature and certify that the answers were true, complete and correct to the best of his or her knowledge and belief.

<sup>3</sup> As page six of the form was missing, the submitted pages did not contain a signature.

<sup>4</sup> Appellant submitted additional evidence after OWCP's August 16, 2011 decision, including additional completed pages of a EN-1032 form.

<sup>5</sup> 20 C.F.R. § 10.528.

submitting the form in a timely manner. Therefore, OWCP properly suspended his compensation effective August 28, 2011.<sup>6</sup>

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, effective August 28, 2011, for failure to fully report earnings and work activity.

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 16, 2011 merit decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 11, 2012  
Washington, DC

Richard J. Daschbach, Chief Judge  
Employees' Compensation Appeals Board

Alec J. Koromilas, Judge  
Employees' Compensation Appeals Board

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

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<sup>6</sup> In its August 16, 2011 decision, OWCP advised appellant that if he completed and returned the missing pages (pages one and six) of the EN-1032 form his compensation would be restored retroactively to the date it was suspended. Appellant submitted additional evidence after OWCP's August 16, 2011 decision, including additional completed pages of a EN-1032 form. However, the Board cannot consider such evidence for the first time on appeal. See 20 C.F.R. § 501.2(c).