

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

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Y.C., claiming as widow of G.C., Appellant )

and )

DEPARTMENT OF THE AIR FORCE, )  
RAMSTEIN AIR FORCE BASE, Germany, )  
Employer )  
\_\_\_\_\_ )

**Docket No. 13-800  
Issued: August 22, 2013**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

PATRICIA HOWARD FITZGERALD, Judge  
ALEC J. KOROMILAS, Alternate Judge  
MICHAEL E. GROOM, Alternate Judge

**JURISDICTION**

On February 15, 2013 appellant filed a timely appeal from a January 8, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP). 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 under 20 C.F.R. § 10.414 for not submitting a properly executed CA-12 form.

**FACTUAL HISTORY**

OWCP accepted that the employee's death on April 2, 1964 was causally related to his federal employment. Appellant began receiving death benefit compensation and periodically

<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

was asked to submit a Form CA-12 application for continuance of compensation benefits. The address that she reported was a bank address with a post office box in Basel, Switzerland.

In a letter dated July 15, 2009, appellant stated that her bank notified her that her monthly compensation payments had been interrupted and she had not received information from OWCP. The letterhead listed a residence address in Paris, France, and she stated that her bank address, account and permanent address in Paris had not changed.

The record indicates that OWCP continued to send CA-12 forms to the Basel, Switzerland address. An August 6, 2009 Form CA-12 reported a Paris address, and a December 4, 2010 Form CA-12 reported another address in France. Appellant completed a November 11, 2011 CA-12 form and reported the Basel, Switzerland address.

By letter dated October 16, 2012, OWCP requested that appellant complete the enclosed Form CA-12 within 30 days. It advised her that her benefits would be suspended if she did not complete the CA-12 form. In a letter dated December 6, 2012, OWCP advised appellant that it had not received a completed CA-12 form.

In a decision dated January 8, 2013, OWCP suspended compensation on the grounds that appellant had not submitted a CA-12 form or written equivalent. It found that when she completed the CA-12 form, benefits would be retroactively restored.

#### **LEGAL PRECEDENT**

According to 20 C.F.R. § 10.414:

“If a beneficiary is receiving compensation benefits on account of an employee’s death, OWCP will ask him or her to complete a report once each year on Form CA-12. The report requires the beneficiary to note changes in marital status and dependents. If the beneficiary fails to submit the form (or written equivalent) within 30 days of the date of request, OWCP shall suspend compensation until the requested form or equivalent written statement is received. The suspension will include compensation payable for or on behalf of another person (for example, compensation payable to a widow on behalf of a child). When the form or statement is received, compensation will be reinstated at the appropriate rate retroactive to the date of suspension, provided the beneficiary is entitled to such compensation.”

#### **ANALYSIS**

The record reflects that OWCP sent a letter dated October 16, 2012 to the last known address of appellant in Basel, Switzerland requesting completion of the CA-12 form within 30 days. While there is some confusion in the record as to her residence, OWCP had been using the Basel, Switzerland address as she had reported in her last Form CA-12 dated November 11, 2011. The Board has held that OWCP may properly use the last known address

for correspondence.<sup>2</sup> In the absence of evidence to the contrary, a letter properly addressed and mailed in the due course of business is presumed to have arrived at the mailing address in due course.<sup>3</sup>

The Board finds that OWCP properly mailed the October 16, 2012 letter to the last known mailing address. OWCP advised appellant that her compensation would be suspended if a properly completed form was not received. A second letter dated December 6, 2012 noted that a response was not received and that failure to complete the form could result in interruption of benefits.

OWCP did not receive a CA-12 form or written equivalent. Appellant's compensation was suspended by decision dated January 8, 2013. The implementing regulations at 20 C.F.R. § 10.414 provides that, if the CA-12 or written equivalent is not timely submitted, OWCP will suspend compensation until the requested form or equivalent is received. Based on the evidence of record, the Board finds that OWCP properly suspended compensation in this case.

On appeal, appellant submitted additional evidence. The Board cannot consider evidence that was not before OWCP at the time of the January 8, 2013 decision on appeal.<sup>4</sup> Once OWCP receives a properly completed CA-12 or written equivalent, her compensation would be reinstated retroactive to the date of suspension. Based on the evidence before the Board, OWCP properly suspended her benefits in this case. 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 entitlement to compensation pursuant to 20 C.F.R. § 10.414.

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<sup>2</sup> See *Claudia J. Whitten*, 52 ECAB 483 (2001) (notice of hearing was properly mailed to claimant's last known address); see also *G.P.*, Docket No. 12-907 (issued October 15, 2012). OWCP procedures specifically state that an OWCP decision shall be mailed to the employee's last known address. 20 C.F.R. § 10.127.

<sup>3</sup> *Jeffrey M. Sagrecy*, 55 ECAB 724 (2004).

<sup>4</sup> 20 C.F.R. § 501.2(c)(1).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated January 8, 2013 is affirmed.

Issued: August 22, 2013  
Washington, DC

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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

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