

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

G.W., Appellant)

and)

DEPARTMENT OF VETERANS AFFAIRS,)
VETERANS HEALTH ADMINISTRATION,)
Milwaukee, WI, Employer)

**Docket No. 13-1019
Issued: August 22, 2013**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Judge
PATRICIA HOWARD FITZGERALD, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On March 26, 2013 appellant filed a timely appeal from a November 5, 2012 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (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 October 21, 2012, for failure to submit a completed Form EN1032 when requested.

FACTUAL HISTORY

On November 29, 1999 appellant, then a 58-year-old licensed nurse practitioner, filed an occupational disease claim alleging Kienbock's disease in her right wrist as a result of repetitive

¹ 5 U.S.C. § 8101 *et seq.*

hand motion in the performance of her duties. She first became aware of her condition and realized it resulted from her employment on September 8, 1999. The employing establishment noted that appellant worked light duty. OWCP accepted her claim for Kienbock's disease of the right wrist. On April 3, 2000 appellant underwent surgery and stopped work. OWCP paid disability compensation.

By decision dated February 11, 2003, OWCP reduced appellant's compensation based on its finding that she had the capacity to earn wages as a security clerk effective October 21, 2002.

By letter dated September 25, 2012, OWCP sent appellant a Form EN1032 and requested that she complete the form and return it within 30 days of the date of the letter. The form contained questions pertaining to her employment and income for the prior 15 months. OWCP advised appellant that if she did not submit the form within 30 days her compensation would be suspended under section 10.528 of its regulations. The letter was mailed to appellant's address of record. Appellant did not respond within 30 days.

In a decision dated November 5, 2012, OWCP suspended appellant's monetary compensation benefits effective October 21, 2012 on the grounds that she had failed to submit a completed Form EN1032 as requested. It informed her that, when she completed the EN1032 form, it would restore her compensation retroactive to the date of suspension.

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.²

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 past 15 months.³ 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.⁴ At that time, OWCP will reinstate compensation retroactive to the date of suspension if the employee remains entitled to compensation.⁵

ANALYSIS

The record establishes that on September 25, 2012 OWCP sent appellant a properly addressed request to complete and return an EN1032 form. OWCP asked for information about her employment and income for the prior 15 months. It explained that federal regulations

² 5 U.S.C. § 8106(b).

³ 20 C.F.R. § 10.528.

⁴ See *Lucille A. Pettaway*, 55 ECAB 228 (2004); *Demetrius Beverly*, 53 ECAB 305 (2002).

⁵ See *supra* note 3.

required her to complete, sign and return the form. OWCP notified appellant that if she did not completely answer all questions and return the signed statement within 30 days, it would suspend her benefits.

Notwithstanding such notice, appellant did not return the completed form within 30 days as requested. As she did not complete and sign the Form EN1032 affidavit reporting all employment and self-employment, as required by federal regulations, the Board finds that OWCP properly suspended her right to compensation for wage loss under section 10.528.⁶

On appeal, appellant contends that she became depressed after the death of her daughter and grandson and forgot to take care of some things. The Board notes, however, that OWCP's implementing regulations are unequivocal in establishing that appellant had 30 days to submit a completed EN1032 form or her compensation benefits would be suspended until such form is completed and submitted.

CONCLUSION

The Board finds that OWCP properly suspended appellant's compensation, effective October 21, 2012, for failure to timely submit a completed EN1032 form when requested.

⁶ See *James A. Igo*, 49 ECAB 189 (1997).

ORDER

IT IS HEREBY ORDERED THAT the November 5, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 22, 2013
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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