

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

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C.T., Appellant )

and )

U.S. POSTAL SERVICE, POST OFFICE, )  
Dallas, TX, Employer )

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**Docket No. 13-1615  
Issued: December 12, 2013**

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

RICHARD J. DASCHBACH, Chief Judge  
MICHAEL E. GROOM, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On June 27, 2013 appellant filed a timely appeal from a May 17, 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 pursuant to 5 U.S.C. § 8123(d).

**FACTUAL HISTORY**

The case has previously been before the Board. By decision dated December 17, 2002, the Board affirmed a May 30, 2002 OWCP decision finding that appellant was not entitled to a

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

schedule award for her accepted psychiatric conditions.<sup>2</sup> In a decision dated October 2, 2006, the Board found that OWCP did not meet its burden of proof to terminate her compensation as of February 12, 2004.<sup>3</sup> By decision dated April 6, 2012, the Board found OWCP properly suspended appellant's compensation for failure to submit requested information regarding any employment activity.<sup>4</sup> The history of the case as noted in the Board's prior decisions is incorporated herein by reference.

By letter dated October 30, 2012, OWCP advised appellant that a second opinion medical evaluation was necessary. It noted that, if she did not provide acceptable reasons for missing the appointment, or if she obstructed the examination, her benefits would be suspended pursuant to 5 U.S.C. § 8123(d). By letter dated November 2, 2012, addressed to appellant's address of record, she was advised that OWCP had scheduled an examination on November 19, 2012 with Dr. Tarakumar Reddy, a psychiatrist, at 2:00 p.m. The letter provided the address of Dr. Reddy. In a letter dated November 27, 2012, the medical services scheduler notified OWCP that appellant did not appear for the scheduled examination.

In a letter dated December 13, 2012, OWCP advised appellant that it proposed to suspend her compensation for failure to appear at the November 19, 2012 examination. It advised her that, if she had good cause for her failure to attend, she should submit in writing her reasons within 14 days. If appellant did not show good cause, her benefits would be suspended.

On February 22, 2013 appellant submitted a February 19, 2013 letter stating that any mail received after September 17, 2012 had been returned to OWCP unopened. She referred to a "requested examination" on November 19, 2012 and then provided contact information for a dentist and family clinic. In a February 26, 2012 memorandum of a telephone call, appellant stated that she was refusing to accept any mail from OWCP because "she was not asking for anything." She advised that she was not going to attend a second opinion examination. OWCP indicated that it would resend a copy of the November 2, 2012 notification of appointment.

In a letter dated April 15, 2013, appellant stated that the telephone number provided was for the medical services scheduler, not Dr. Reddy. By letter dated April 19, 2013, she stated that she did not need to reschedule the appointment, as she was attempting to get an appointment in her county of residence. In a letter dated April 26, 2013, appellant stated that she had attempted to visit Dr. Reddy on April 22, 2013 but the address provided was "vacant." The record contains a May 16, 2013 OWCP e-mail in which that the medical services scheduler confirmed that the address of Dr. Reddy was correct.

By decision dated May 17, 2013, OWCP suspended appellant's compensation for failure to attend the November 19, 2012 second opinion examination. It noted that the suspension would cease when appellant complied with the scheduled examination.

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<sup>2</sup> Docket No. 02-1971 (issued December 17, 2002). OWCP accepted anxiety, depression and post-traumatic stress disorder (PTSD) resulting from an April 22, 1998 employment incident.

<sup>3</sup> Docket No. 05-1805 (issued October 2, 2006).

<sup>4</sup> Docket No. 11-2102 (issued April 6, 2012).

### LEGAL PRECEDENT

Section 8123(a) of FECA provides that “An employee shall submit to examination by a medical officer of the United States, or by a physician designated or approved by the Secretary of Labor, after the injury and as frequently and at times and places as may be reasonably required.” The regulations governing the administration of FECA also provide that “the employee must submit to an examination by a qualified physician as often and at such times and places as OWCP considers reasonably necessary.”<sup>5</sup> Under 5 U.S.C. § 8123(d), “If an employee refuses to submit to or obstructs an examination, his right to compensation under this subchapter is suspended until the refusal or obstruction stops.”

If the claimant does not report for a scheduled appointment, he or she should be asked in writing to provide an explanation within 14 days. If good cause is not established, entitlement to compensation is suspended in accordance with 5 U.S.C. § 8123(d) until the date on which the claimant agrees to attend the examination.<sup>6</sup>

### ANALYSIS

OWCP advised appellant by letter dated November 2, 2012 of a scheduled second opinion examination with Dr. Reddy on November 19, 2012. The letter was sent to her address of record. Appellant did not appear for the scheduled examination. At the time of the notification of the scheduled appointment, she was advised of the consequences under 5 U.S.C. § 8123(d) for failure to appear. OWCP provided appellant an opportunity to provide an explanation for her failure to appear. It issued a December 13, 2012 letter advising her to establish good cause for her failure to appear within 14 days or her compensation would be suspended.

The evidence of record reflects that appellant intentionally refused to accept mail from OWCP for a period of time. Although she did not specifically raise the issue, under these circumstances any argument that proper notice of the examination was not provided would be insufficient to provide a valid reason for the failure to appear for the scheduled examination. Appellant submitted an April 26, 2013 letter, asserting that she had attempted to visit Dr. Reddy in April 2013 but the location at the address provided was vacant. OWCP found that the address provided to appellant was correct. The issue is the scheduled appointment on November 19, 2012. No evidence was presented that the address provided for Dr. Reddy was incorrect at that time, nor did appellant allege that she attempted to visit Dr. Reddy on November 19, 2012. Appellant did not accept mail from OWCP and telephone memoranda indicates that she advised OWCP that she was not going to attend a second opinion examination.

The Board finds that appellant did not provide good cause for her failure to appear for the scheduled examination. Pursuant to 5 U.S.C. § 8123(d) OWCP properly suspended her compensation.

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<sup>5</sup> 20 C.F.R. § 10.320.

<sup>6</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Developing and Evaluating Medical Evidence*, Chapter 2.810.13 (September 2010).

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 pursuant to 5 U.S.C. § 8123(d).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated May 17, 2013 is affirmed.

Issued: December 12, 2013  
Washington, DC

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

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

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