

FACTUAL HISTORY

On November 29, 1993 appellant, then a 41-year-old pilot, filed an occupational disease claim alleging that he sustained a herniated lumbar disc causally related to factors of his federal employment. OWCP accepted the claim for a herniated nucleus pulposus at L4-5.

By decision dated May 28, 1996, OWCP reduced appellant's compensation based on its finding that he had the capacity to earn wages as a paralegal effective June 23, 1996.

By letter dated May 10, 2012, OWCP requested that appellant complete, sign and return an enclosed Form EN1032 detailing his earnings and employment for the previous 15 months. It advised him that his benefits would be suspended pursuant to 20 C.F.R. § 10.528 if OWCP did not receive the completed document within 30 days. The letter was mailed to appellant's address of record.

In a decision dated July 5, 2012, OWCP suspended appellant's wage-loss compensation effective July 1, 2012 as he did not submit a completed Form EN1032 as requested. It informed him that, when he completed the EN1032 form, it would restore his 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.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.⁵ At that time, OWCP will reinstate compensation retroactive to the date of suspension if the employee remains entitled to compensation.⁶

ANALYSIS

On May 10, 2012 OWCP provided appellant with a Form EN1032 requesting information about his earnings and employment activities for the prior 15 months. It explained that federal regulations required him to complete, sign and return the form. OWCP notified

³ 5 U.S.C. § 8101 *et seq.*

⁴ 20 C.F.R. § 10.528.

⁵ *See Lucille A. Pettaway*, 55 ECAB 228 (2004); *Demetrius Beverly*, 53 ECAB 305 (2002).

⁶ *See supra* note 3.

appellant that if he did not completely answer all questions and return the signed statement within 30 days, it would suspend his benefits.

Notwithstanding such notice, appellant did not return the form within 30 days as requested. As he did not complete and sign the Form EN1032 affidavit reporting all employment and self-employment, as required by federal regulations, OWCP properly suspended his right to compensation for wage loss under section 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 and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that OWCP properly suspended appellant's compensation benefits based on his failure to timely submit a completed EN1032 form when requested.

ORDER

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

Issued: June 13, 2013
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

⁷ See *James A. Igo*, 49 ECAB 189 (1997).