

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

M.C., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Long Beach, CA, Employer**

)
)
)
)
)
)
)
)
)
)
)
)

**Docket No. 13-1002
Issued: November 14, 2013**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Alternate Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On March 22, 2013 appellant filed a timely appeal from a March 12, 2013 decision of the Office of Workers' Compensation Programs (OWCP) suspending her compensation. 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 benefits for failure to submit a CA-1032 form when requested.

FACTUAL HISTORY

On October 15, 2008 appellant, then a 59-year-old general clerk, was injured when she slipped while walking down stairs. She sustained injury to her neck, low back and twisted her knee. OWCP accepted appellant's claim for cervical and lumbar strain and right medial and

¹ 5 U.S.C. § 8101 *et seq.*

lateral meniscus tear. Appellant did not immediately stop work but received wage-loss compensation on the periodic rolls for disability in 2009.

On January 15, 2013 OWCP asked appellant to complete a Form CA-1032 within 30 days to provide information regarding any earnings during the prior reporting period. Appellant was advised that her benefits would be suspended pursuant to 20 C.F.R. § 10.528 if a completed CA-1032 form was not received by OWCP within 30 days. No response was received.

By decision dated March 12, 2013, OWCP suspended appellant's wage-loss benefits effective March 10, 2013. It found that she did not submit a complete Form CA-1032, as requested. OWCP informed appellant that, when she completed the CA-1032 form, her compensation would be restored retroactively from the date of suspension.²

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

OWCP requested that appellant submit a CA-1032 form with respect to any employment activity performed for the prior 15 months. It requested the information by letter dated January 15, 2013 and advised her to submit the form within 30 days or her compensation could be suspended. The record establishes that appellant did not respond prior to the March 12, 2013 OWCP decision.

² The Board notes that appellant submitted a Form CA-1032 to the Board on appeal. The Board, however, may only review evidence that was in the record at the time OWCP issued its final decision. *See* 20 C.F.R. § 501.2(c)(1); *M.B.*, Docket No. 09-176 (issued September 23, 2009); *J.T.*, 59 ECAB 293 (2008); *G.G.*, 58 ECAB 389 (2007); *Donald R. Gervasi*, 57 ECAB 281 (2005); *Rosemary A. Kayes*, 54 ECAB 373 (2003). This decision does not preclude appellant from submitting this form to OWCP.

³ 5 U.S.C. § 8106(b).

⁴ 20 C.F.R. § 10.528.

⁵ *See N.G.*, Docket No. 12-981 (issued December 4, 2012); *Lucille A. Pettaway*, 55 ECAB 228 (2004); *Demetrius Beverly*, 53 ECAB 305 (2002).

⁶ *Supra* note 4.

Based on the evidence of record, the Board finds that OWCP properly suspended appellant's compensation effective March 10, 2013 pursuant to 20 C.F.R. § 10.528.

On appeal appellant asserts that she submitted the CA-1032 forms in January 2013. The evidence of record does not establish that the CA-1032 form was received by OWCP prior to the March 12, 2013 decision.

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 benefits based on her failure to timely submit a completed CA-1032 form when requested.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated March 12, 2013 is affirmed.

Issued: November 14, 2013
Washington, DC

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

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

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