

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

E.E., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Nashville, TN, Employer**

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**Docket No. 14-230
Issued: August 20, 2014**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

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

JURISDICTION

On November 13, 2013 appellant filed a timely appeal from the October 17, 2013 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.²

ISSUE

The issue is whether OWCP properly suspended appellant's compensation for failure to submit a Form EN1032, as requested.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that appellant submitted additional evidence after the October 17, 2013 decision. The Board 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, 295 n.1 (2008); *G.G.*, 58 ECAB 389, 391 n.7 (2007); *Donald R. Gervasi*, 57 ECAB 281, 284 n.1 (2005); *Rosemary A. Kayes*, 54 ECAB 373, 375 n.8 (2003). Therefore, this additional evidence cannot be considered on appeal. *See James C. Campbell*, 5 ECAB 35, 36 n.2 (1952).

FACTUAL HISTORY

On December 4, 1995 appellant, then a 44-year-old city letter carrier, filed an occupational disease claim (Form CA-2) alleging that she sustained right carpal tunnel syndrome as a result of her federal employment. OWCP accepted her claim for right carpal tunnel syndrome on February 15, 1996, and subsequently accepted the claim on December 8, 2010 for bilateral carpal tunnel syndrome; a right foreign body left during a surgical procedure, and a residual foreign body in her soft tissue. It paid wage-loss benefits for disability beginning October 25, 2002, and placed her on the periodic rolls beginning September 4, 2005.

On September 3, 2013 OWCP informed appellant that federal regulations required her to make an affidavit of any earnings or employment during the previous year and that a Form EN1032 was enclosed for that purpose.³ It notified her that she had to fully answer all questions on the Form EN1032 and return the statement within 30 days or her benefits would be suspended. The letter was sent to appellant's last known address. Appellant did not respond.

By decision dated October 17, 2013, OWCP suspended appellant's compensation benefits, effective December 15, 2013, for failing to submit the form as requested. It noted that, if she completed and returned an enclosed copy of the form, her compensation benefits would be restored retroactively to the date they were suspended.

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.⁴

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.⁵ 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.⁶ At that time, OWCP will reinstate compensation retroactive to the date of suspension if the employee remains entitled to compensation.⁷

³ The Board notes that following her placement in the periodic rolls, appellant had completed and submitted prior EN1032 forms to OWCP.

⁴ 5 U.S.C. § 8106(b).

⁵ 20 C.F.R. § 10.528.

⁶ See *N.G.*, Docket No. 12-981 (issued December 4, 2012); *Lucille A. Pettaway*, 55 ECAB 228, 232 (2004); *Demetrius Beverly*, 53 ECAB 305, 307 (2002).

⁷ *Supra* note 4.

ANALYSIS

On September 3, 2013 OWCP provided appellant with a Form EN1032 and explained that federal regulations required her to complete it and answer all questions concerning her employment and earnings. It properly notified her that if she did not completely answer all questions and return the statement within 30 days, her benefits would be suspended. The notification was properly sent to appellant's last known address.⁸ Appellant did not respond prior to the October 17, 2013 decision.

Based on the evidence of record, the Board finds that OWCP properly suspended appellant's compensation benefits effective December 15, 2013 pursuant to 20 C.F.R. § 10.528.⁹

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 for failing to submit information on a Form EN1032, as requested.

⁸ *J.J.*, Docket No. 13-1067 (issued September 20, 2013).

⁹ *See J.J.*, Docket No. 09-1724 (issued March 1, 2010). *See also James A. Igo*, 49 ECAB 189, 191 (1997).

ORDER

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

Issued: August 20, 2014
Washington, DC

Patricia Howard Fitzgerald, Acting Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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