

for lumbar sprain and displacement of lumbar intervertebral disc without myelopathy. It paid wage-loss benefits for disability beginning December 15, 2012.

On August 1, 2013 OWCP informed appellant that federal regulations required her to make an affidavit relative of any earnings and employment during the previous year and that a Form CA-1032 was enclosed for that purpose. It notified her that she had to fully answer all questions on the Form CA-1032 and return the statement within 30 days or her benefits would be suspended. The letters were sent to appellant's address of record. Appellant did not respond.

By decision dated September 10, 2013, OWCP suspended appellant's compensation benefits, effective September 22, 2013, for failing to submit the Form CA-1032 as requested. It noted that, if she completed and returned an enclosed copy of the Form CA-1032, her compensation benefits would be restored retroactively to the date they were suspended.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. At that time, OWCP will reinstate compensation retroactive to the date of suspension if the employee remains entitled to compensation.⁵

ANALYSIS

On August 1, 2013 OWCP provided appellant with a Form CA-1032 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 record does not establish that appellant responded prior to the September 10, 2013 OWCP decision.

² The Board notes that appellant submitted a Form CA-1032 to the Board on appeal. 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 (2008); *G.G.*, 58 ECAB 389 (2007); *Donald R. Gervasi*, 57 ECAB 281 (2005); *Rosemary A. Kayes*, 54 ECAB 373 (2003). Therefore, this additional evidence cannot be considered on appeal. *Dennis E. Maddy*, 47 ECAB 259 (1995); *James C. Campbell*, 5 ECAB 35, 36 n.2 (1952). This decision does not preclude appellant from submitting this form to OWCP. *M.C.*, Docket No. 13-1002 (issued November 14, 2013).

³ 5 U.S.C. § 8106(b).

⁴ 20 C.F.R. § 10.528.

⁵ *Id.*; *see also* 20 C.F.R. § 10.525.

Based on the evidence of record, the Board finds that OWCP properly suspended appellant's compensation benefits effective September 22, 2013 pursuant to 20 C.F.R. § 10.528.⁶

As previously noted, appellant submitted new evidence on appeal. The Board, however, cannot consider evidence that was not before OWCP at the time of the final decision.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(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 CA-1032, as required.

ORDER

IT IS HEREBY ORDERED THAT the September 10, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 20, 2014
Washington, DC

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

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

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

⁶ *J.J.*, Docket No. 09-1724 (issued March 1, 2010). *See also James A. Igo*, 49 ECAB 189 (1997).

⁷ *Supra* note 2.