

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

J.R., Appellant

and

**DEPARTMENT OF THE TREASURY,
BUREAU OF ENGRAVING & PRINTING,
Washington, DC, Employer**

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**Docket No. 13-1946
Issued: January 7, 2014**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On August 22, 2013 appellant filed a timely appeal from the March 20, 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.

ISSUE

The issue is whether OWCP properly suspended appellant's compensation effective March 21, 2013 for failure to submit a Form EN-1032 when requested.

¹ 5 U.S.C. §§ 8101-8193.

FACTUAL HISTORY

OWCP accepted that on November 15, 2010 appellant, then a 56-year-old plate printer, sustained a right elbow sprain and right lateral epicondylitis while using a wrench to tighten plates on a printing press.² He was placed on compensation benefits.

In January 2012, appellant began to participate in an OWCP-sponsored vocational rehabilitation program.³

In a January 24, 2013 letter sent to appellant's address of record, OWCP asked him to complete a Form EN-1032 within 30 days to provide information regarding any earnings during the prior 15-month reporting period. Appellant was advised that his benefits would be suspended pursuant to 20 C.F.R. § 10.528 if the completed form was not received by OWCP within 30 days. No response was received.

By decision dated March 20, 2013, OWCP suspended appellant's wage-loss benefits effective March 21, 2013. It found that he had not returned a completed Form EN-1032 within the allotted time, as required. OWCP informed appellant that his compensation benefits would be restored retroactively from the date of suspension upon receipt of the completed form.

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

² On the traumatic injury form he filed on November 26, 2010, appellant listed a home address in Waldorf, Maryland.

³ The vocational rehabilitation reports all bear appellant's home address in Waldorf, Maryland.

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 (2004); *Demetrius Beverly*, 53 ECAB 305 (2002).

⁷ *Supra* note 4.

It is presumed, in the absence of evidence to the contrary, that a notice mailed to an individual in the ordinary course of business was received by that individual. This presumption arises when it appears from the record that the notice was properly addressed and duly mailed.⁸

ANALYSIS

OWCP requested that appellant submit a Form EN-1032 with respect to any employment activity performed for the prior 15 months. It requested the information by letter dated January 24, 2013 and advised him to submit the form within 30 days or his compensation could be suspended. The record establishes that appellant did not respond prior to the March 20, 2013 OWCP decision.

On appeal appellant asserts that he did not receive the Form EN-1032 because, at the time it was mailed, he was living in North Carolina. He contended that he advised his vocational rehabilitation counselor of the change of address. However, appellant's address of record at the time of the mailing of the Form EN-1032 was his address in Waldorf, Maryland. There is no evidence that he advised OWCP of a change of address in writing prior to that time. The Form EN-1032 was properly addressed and duly mailed in the course of business to the address of record and it is presumed to have been received by appellant. There is no contrary evidence of record to rebut this presumption.⁹

Based on the evidence of record, the Board finds that OWCP properly suspended appellant's compensation effective March 21, 2013 pursuant to 20 C.F.R. § 10.528.

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 effective March 21, 2013 for failure to submit a Form CA-1032 when requested.

⁸ *Michelle R. Littlejohn*, 42 ECAB 463, 465 (1991).

⁹ Appellant also asserted that he could not accept a position offered by the employing establishment because he had moved. However, this issue is not currently before the Board.

ORDER

IT IS HEREBY ORDERED THAT the March 20, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 7, 2014
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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