

FACTUAL HISTORY

OWCP accepted that on July 20, 1992 appellant, then a 43-year-old employee, suffered a sprain of left shoulder and upper arm and displacement of cervical intervertebral disc without myelopathy and paid FECA benefits. She was eventually retained on the periodic compensation rolls.

On October 7, 2014 OWCP informed appellant that federal regulations required her to make an affidavit relative to any earnings or employment during the previous year and that an EN1032 form was enclosed for that purpose. It notified her that she had to fully answer all questions on the form and return the statement within 30 days or her benefits would be suspended. The letter was mailed to appellant's address of record. Appellant did not respond.

By decision dated December 16, 2014, OWCP suspended appellant's compensation benefits, effective January 11, 2014,³ for failing to submit the EN1032 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. At that time, OWCP will reinstate compensation retroactive to the date of suspension if the employee remains entitled to compensation.⁶

ANALYSIS

On October 7, 2014 OWCP provided appellant with an EN1032 form. It notified her that federal regulations required her to complete the form and answer all questions concerning her employment or earnings. OWCP properly notified appellant that, if she did not completely answer all questions and return the statement within 30 days, her benefits would be suspended. The record reflects that OWCP's letter was properly sent to her address of record.⁷ The record

³ The record reflects that benefits were suspended as of January 11, 2015.

⁴ *Id.* at § 8106(b).

⁵ 20 C.F.R. § 10.528.

⁶ *Id.*; *see also id.* at § 10.525.

⁷ *See J.J.*, Docket No. 13-1067 (issued September 20, 2013).

does not establish that appellant responded prior to the December 16, 2014 OWCP decision. Based on the evidence of record, the Board finds that OWCP properly suspended her compensation benefits pursuant to 20 C.F.R. § 10.528.⁸

On appeal appellant contends that she was hospitalized from November 2014 until January 23, 2015 and could not get her paperwork ready as she was not home to check on her mail. She argued that she should not be penalized for being ill and she would prepare the appropriate paperwork and mail it to OWCP. Appellant provided the name and number of her physician and social worker to verify that she was hospitalized during the claimed time frame. OWCP properly informed her that her benefits would be retroactively reinstated when she completed and submitted the EN1032 form to OWCP.

CONCLUSION

The Board finds that OWCP properly suspended appellant's compensation benefits for failing to submit information on a EN1032 form, as required.

ORDER

IT IS HEREBY ORDERED THAT the December 16, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 10, 2015
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

⁸ *J.J.*, Docket No. 09-1724 (issued March 1, 2010). *See also James A. Igo*, 49 ECAB 189 (1997).