

FACTUAL HISTORY

On December 18, 1978 appellant, then a 55-year-old equal opportunity specialist, filed an occupational disease claim (Form CA-2) alleging that she had an emotional condition causally related to her federal employment. OWCP accepted the claim for depression on March 21, 1980. Appellant stopped working and began receiving wage-loss compensation on the periodic rolls.

OWCP periodically sent appellant a letter (Form CA-1032) requesting that she complete an enclosed form (Form EN1032) with regard to her employment activity, if any, within the past 15 months.³ By CA-1032 dated October 2, 2012, OWCP requested that she answer all questions on the EN1032 form within 30 days. Appellant was advised that failure to respond would result in suspension of benefits pursuant to 20 C.F.R. § 10.528. She submitted a completed EN1032 on November 2, 2012.

OWCP sent appellant a CA-1032 dated October 2, 2013, again requesting that she complete an EN1032 form within 30 days. By decision dated November 18, 2013, it suspended appellant's compensation effective December 15, 2013 for failure to submit the requested information. The record indicates that appellant submitted a completed EN1032 form on December 9, 2013 and the suspension was lifted. Appellant continued to receive wage-loss compensation.

On October 2, 2014 OWCP again requested that appellant complete an enclosed EN1032 form within 30 days. It again advised her that if she did not complete the form her compensation would be suspended pursuant to 20 C.F.R. § 10.528.

By decision dated November 6, 2014, OWCP suspended appellant's compensation effective November 16, 2014. It found that she had not submitted the requested information regarding her employment activity, if any. In addition, OWCP advised appellant that her compensation would be restored retroactively if she completed and submitted the EN1032 form.

LEGAL PRECEDENT

Section 8106(b) of 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.

³ The EN1032 also requests information with respect to dependents, receipt of other federal benefits, third-party settlements, and fraud offenses.

⁴ 5 U.S.C. § 8106(b).

⁵ 20 C.F.R. § 10.528. *See also A.H.*, Docket No. 15-241 (issued April 3, 2015).

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

ANALYSIS

In the present case, OWCP sent appellant a letter dated October 2, 2014 requesting that she complete and return the enclosed EN1032 form. Appellant was advised that she must complete and return the form within 30 days, or her compensation would be suspended. This was consistent with previous requests sent periodically by OWCP.

The record indicates that appellant failed to timely submit the EN1032 form within 30 days. Appellant was receiving wage-loss compensation and she was required to complete the EN1032 form. The failure to file the EN1032 form within 30 days results in the suspension of compensation until OWCP receives the completed form. The Board finds that OWCP properly suspended appellant's compensation pursuant to 20 C.F.R. § 10.528.

On appeal, appellant states that she did not complete the forms in a timely manner because she has health issues and was hospitalized for a short period on two occasions. Appellant's compensation will be reinstated retroactive to the date of suspension once she properly submits the requested information.⁷ Based on the evidence of record, OWCP properly suspended compensation effective November 16, 2014 in this case.

CONCLUSION

The Board finds that OWCP properly suspended appellant's compensation effective November 16, 2014.

⁶ *Id.*; see also 20 C.F.R. § 525.

⁷ *Supra* note 4; see also *T.G.*, Docket No. 14-952 (issued July 14, 2014).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated November 6, 2014 is affirmed.

Issued: July 7, 2015
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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