

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

A.S., Appellant)
)
)
and) **Docket No. 17-1530**
) **Issued: November 7, 2017**
)
DEPARTMENT OF DEFENSE, DEFENSE)
PERSONNEL SUPPORT CENTER,)
Philadelphia, PA, Employer)
)
)

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

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
COLLEEN DUFFY KIKO, Judge

JURISDICTION

On July 5, 2017 appellant filed a timely appeal from a June 20, 2017 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 to consider the merits of the case.²

ISSUE

The issue is whether OWCP properly suspended appellant's compensation benefits effective June 25, 2017 for failure to complete an EN1032 form as requested.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that appellant submitted additional evidence after OWCP rendered its June 20, 2017 decision. The Board's jurisdiction is limited to reviewing the evidence that was before OWCP at the time of its final decision. Therefore, this additional evidence cannot be considered by the Board. 20 C.F.R. § 501.2(c)(1).

FACTUAL HISTORY

OWCP accepted that in November 1992 appellant, a 41-year-old sewing machine operator, suffered left carpal tunnel syndrome as a result of factors of her federal employment. She received wage-loss compensation payments beginning December 3, 1992 and she was placed on the periodic rolls on August 7, 1996.

Once on the periodic compensation rolls OWCP regularly sends recipients of compensation a letter (Form CA-1032) requesting completion of an enclosed form (Form EN1032) with regard to employment activity, if any, within the past 15 months.³ By Form CA-1032 dated April 19, 2017, it 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. OWCP notified appellant that she had to fully answer all questions on the form and return the statement within 30 days or her benefits would be suspended pursuant to 20 C.F.R. § 10.528. The letter was mailed to her address of record. No response was received.

By decision dated June 20, 2017, OWCP suspended appellant's compensation benefits effective June 25, 2017 for failing to complete 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 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

³ The EN1032 form 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 P.M.*, Docket No. 16-0382 (issued May 19, 2016); *A.H.*, Docket No. 15-241 (issued April 3, 2015).

⁶ *Id.*; *see also* 20 C.F.R. § 10.525.

ANALYSIS

The Board finds that OWCP properly suspended appellant's compensation benefits, effective June 25, 2017, for failure to complete the EN1032 form as requested.

On April 19, 2017 OWCP provided appellant with the 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 Under the mailbox rule, a document mailed in the ordinary course of the sender's business practices to the addressee's last known address is presumed to be received by the addressee.

Appellant failed to timely submit the EN1032 form within 30 days.⁸ She was receiving wage-loss compensation and she was required to complete the EN1032 form. The failure to file an EN1032 form within 30 days results in the suspension of compensation. Thus, the Board finds that OWCP properly suspended appellant's compensation benefits effective June 25, 2017 pursuant to 20 C.F.R. § 10.528.⁹

On appeal appellant submitted additional evidence. The Board's jurisdiction is limited to reviewing the evidence that was before OWCP at the time of its final decision.¹⁰ Therefore, this additional evidence cannot be considered by the Board. As noted, appellant's benefits may be retroactively reinstated once she submits the EN1032 form to OWCP.

CONCLUSION

The Board finds that OWCP properly suspended appellant's compensation benefits effective June 25, 2017 for failure to complete an EN1032 form as requested.

⁷ See *Kenneth E. Harris*, 54 ECAB 502, 505 (2003); *J.J.*, Docket No. 13-1067 (issued September 20, 2013).

⁸ See *I.S.*, Docket No. 15-0800 (issued July 7, 2015) (where the employee stated that she had not completed the forms in a timely manner because she had health issues and had been hospitalized for a short period on two occasions, the Board found that she had failed to timely submit the EN1032 form within 30 days and that suspension was proper. However, appellant was advised that compensation benefits would be reinstated retroactive to the date of suspension once she properly submitted the requested information to OWCP).

⁹ See *P.M.*, *supra* note 5; *M.W.*, Docket No. 15-0507 (issued June 18, 2015).

¹⁰ See *supra* note 2.

ORDER

IT IS HEREBY ORDERED THAT the June 20, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 7, 2017
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