

FACTUAL HISTORY

On October 22, 1984 appellant, then a 39-year-old contracts specialist, filed a traumatic injury claim (Form CA-1) alleging that, on August 20, 1984, she was involved in a motor vehicle accident and sustained a right knee injury while in the performance of duty. OWCP accepted appellant's claim for right knee strain. It subsequently expanded acceptance of the claim to include partial tear of the right lateral meniscus, dislocation of the knee, and loose body in the knee. Appellant underwent surgery for the removal of the loose body and a lateral meniscectomy on November 5, 1984. She returned to part-time duty on January 30, 1985, and returned to full-time duty on March 18, 1985. Appellant stopped work again on March 25, 1987. She returned to work intermittently until October 1, 1998, but did not return after that date. OWCP initially paid appellant wage-loss compensation on the supplemental rolls and then on the periodic rolls after October 1, 1998.

By Form CA-1032 dated October 1, 2018, OWCP informed appellant that federal regulations required her to report any improvement in her medical condition, any employment, any change in the status of claimed dependents, any third-party settlement, and any income or change in income from federally-assisted disability or benefit programs. It notified her that she was required to fully answer all questions on the enclosed EN1032 form and return it within 30 days or her benefits would be suspended. The letter was mailed to appellant's last known address. However, no response was received by OWCP.

By decision dated November 20, 2018, OWCP suspended appellant's compensation benefits, effective December 9, 2018, 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

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.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

³ 5 U.S.C. § 8106(b).

⁴ 20 C.F.R. § 10.528. *See also M.S.*, Docket No. 18-1107 (issued December 28, 2018); *C.C.*, Docket No. 17-0043 (issued June 15, 2018); *A.H.*, Docket No. 15-0241 (issued April 3, 2015).

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

ANALYSIS

The Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective December 9, 2018, for failure to complete an EN1032 form as requested.

On October 1, 2018 OWCP provided appellant with an EN1032 form. It properly advised her that, if she did not completely answer all of the questions and return the statement within 30 days, her benefits would be suspended. The record reflects that OWCP's letter was properly sent to appellant's last known address and there is no indication that it was returned as undeliverable.⁶ 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.

The record indicates that appellant failed to timely submit the EN1032 form within 30 days of OWCP's request. Appellant was receiving wage-loss compensation and she was therefore required to complete the EN1032 form. Her failure to file an EN1032 form within 30 days resulted in the suspension of compensation. Thus, the Board finds that OWCP properly suspended appellant's compensation benefits, effective December 9, 2018, pursuant to 20 C.F.R. § 10.528.

CONCLUSION

The Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective December 9, 2018, for failure to complete an EN1032 form as requested.

⁶ See *C.C.*, *supra* note 4; *Kenneth E. Harris*, 54 ECAB 502, 505 (2003); *J.J.*, Docket No. 13-1067 (issued September 20, 2013).

ORDER

IT IS HEREBY ORDERED THAT the November 20, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 26, 2019
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board