



## ISSUE

The issue is whether OWCP properly suspended appellant's wage-loss compensation benefits, effective October 12, 2019, for failure to complete an EN1032 form as requested.

## FACTUAL HISTORY

On April 19, 2004 appellant, then a 47-year-old transportation security screener, filed an occupational disease claim (Form CA-2) alleging that she sustained a bulging L5-S1 disc as a result of factors of her federal employment including twisting her waist when moving the belongings of passengers from a table to a conveyer belt. OWCP initially accepted her claim for lumbar strain/sprain and dislocation of the lumbar vertebra, and later expanded acceptance of the claim to include right hip and thigh sprain, chronic pain syndrome, degeneration of the lumbar or lumbosacral intervertebral disc, and displacement of the lumbar intervertebral disc without myelopathy. It paid appellant wage-loss compensation on the periodic rolls commencing October 16, 2016.

On August 12, 2019 OWCP provided appellant a Form EN1032 and informed her 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 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, OWCP received no response.

By decision dated October 11, 2019, OWCP suspended appellant's compensation benefits, effective October 12, 2019, 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.<sup>3</sup>

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.<sup>4</sup> 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

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<sup>3</sup> 5 U.S.C. § 8106(b).

<sup>4</sup> 20 C.F.R. § 10.528. *See also H.B.*, Docket No. 19-0405 (issued June 26, 2019); *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).

time, OWCP will reinstate compensation retroactive to the date of suspension if the employee remains entitled to compensation.<sup>5</sup>

### **ANALYSIS**

The Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective October 12, 2019, for failure to complete an EN1032 form as requested.

On August 12, 2019 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.<sup>6</sup> 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.<sup>7</sup>

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 October 12, 2019, pursuant to 20 C.F.R. § 10.528.

### **CONCLUSION**

The Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective October 12, 2019, for failure to complete an EN1032 form as requested.

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<sup>5</sup> *Id.*

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

<sup>7</sup> *Id.*

**ORDER**

**IT IS HEREBY ORDERED THAT** the October 11, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 23, 2020  
Washington, DC

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

Patricia H. Fitzgerald, Alternate Judge  
Employees' Compensation Appeals Board

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