

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

R.B., Appellant

and

DEPARTMENT OF THE NAVY, NAVAL
INSTALLATIONS-INACTIVE FACILITY,
San Diego, CA, Employer

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**Docket No. 20-0176
Issued: June 25, 2020**

Appearances:

Sandra Lopez, for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

CHRISTOPHER J. GODFREY, Deputy Chief Judge
JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge

JURISDICTION

On October 29, 2019 appellant filed a timely appeal from an October 18, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.³

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² 5 U.S.C. § 8101 *et seq.*

³ The Board notes that following the October 18, 2019 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this evidence for the first time on appeal. *Id.*

ISSUE

The issue is whether OWCP properly suspended appellant's compensation benefits, effective November 10, 2019, for failure to complete an EN1032 form as requested.

FACTUAL HISTORY

On March 25, 1994 appellant, then a 52-year-old supply system analyst supervisor, filed an occupational disease claim (Form CA-2) alleging that she sustained neck, bilateral hand, wrist, shoulder, and arm injuries due to factors of her federal employment, including typing on a computer terminal keyboard on a daily basis. OWCP accepted the claim for bilateral carpal tunnel syndrome and paid appellant wage-loss compensation on the periodic rolls commencing June 14, 1996.

Over the years, OWCP periodically requested that appellant submit financial disclosure statements (Form CA-1032) which solicited information about her employment, volunteer work, dependent(s) status, receipt of other federal benefits and/or payments, and third-party settlements.

On September 9, 2019 OWCP sent appellant a Form EN1032 and 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.

By decision dated October 18, 2019, OWCP noted that no response had been received to its September 9, 2019 letter. It suspended appellant's compensation benefits, effective November 10, 2019, for failing to complete the EN1032 form as requested. OWCP 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

⁴ 5 U.S.C. § 8106(b).

⁵ 20 C.F.R. § 10.528; *see also* A.H., Docket No. 15-0241 (issued April 3, 2015).

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

ANALYSIS

On September 9, 2019 OWCP provided appellant with an EN1032 form and notified her that federal regulations required her to complete the form and answer all questions concerning her employment or earnings within 30 days or her benefits would be suspended. The record reflects that OWCP's letter was properly sent to appellant's address of record.

The record indicates that appellant failed to timely submit the EN1032 form as required. Appellant's failure to file an EN1032 form within 30 days properly resulted in the suspension of her wage-loss compensation until OWCP received the completed form. Thus, the Board finds that, pursuant to 20 C.F.R. § 10.528, OWCP properly suspended appellant's compensation benefits, effective November 10, 2019.⁷

CONCLUSION

The Board finds that OWCP properly suspended appellant's compensation benefits effective November 10, 2019 for failure to complete an EN1032 form as requested.

ORDER

IT IS HEREBY ORDERED THAT the October 18, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 25, 2020
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

⁷ S.C., Docket No. 18-0517 (issued February 25, 2020).