



## **ISSUE**

The issue is whether OWCP properly suspended appellant's wage-loss compensation benefits, effective October 13, 2019, for failure to complete an EN1032 form as requested.

## **FACTUAL HISTORY**

On January 31, 1984 appellant, then a 37-year-old motor vehicle operator, filed a traumatic injury claim (Form CA-1) alleging that on that day he injured his back, right knee, right elbow, and right shoulder when he stepped on ice-covered steps and fell down to the bottom of the stairway while cleaning the steps in the performance of duty. On June 13, 1984 OWCP accepted the claim for a contusion and sprain of the right shoulder and derangement of the right knee and paid appellant wage-loss compensation on the periodic rolls commencing June 14, 1984.

By decision dated April 12, 1994, OWCP reduced appellant's wage-loss compensation based on its finding that his actual earnings as a poker dealer, \$216.00 per week, effective May 1, 1994, fairly and reasonably represented his wage-earning capacity.

Over the years, OWCP periodically requested that appellant submit completed financial disclosure statements (Form EN1032) which solicited information about his employment, volunteer work, dependent(s) status, receipt of other federal benefits and/or payments, and third-party settlements.

On September 9, 2019 OWCP provided appellant a Form EN1032 and informed him that federal regulations required him to report any improvement in his 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 him that he was required to fully answer all questions on the EN1032 form and return it within 30 days or his benefits would be suspended. The letter was mailed to appellant's last known address. No response was received within the time allotted.

By decision dated October 16, 2019, OWCP suspended appellant's compensation benefits, effective October 13, 2019, for failing to complete the EN1032 form as requested. It noted that no response had been received to its September 9, 2019 letter. OWCP advised that, if he completed and returned an enclosed copy of the form, his 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

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<sup>3</sup> 5 U.S.C. § 8106(b).

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 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 13, 2019, for failure to complete an EN1032 form as requested.

On September 9, 2019 OWCP provided appellant with an EN1032 form. It properly advised him that, if he had not completely answered all of the questions and return the statement within 30 days, his 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 he was, therefore, required to complete the EN1032 form. His 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 13, 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 13, 2019, for failure to complete an EN1032 form as requested.

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<sup>4</sup> 20 C.F.R. § 10.528. *See also P.B.*, Docket No. 20-0148 (issued July 23, 2020); *R.B.*, Docket No. 20-0176 (issued June 25, 2020); *H.B.*, Docket No. 19-0405 (issued June 26, 2019).

<sup>5</sup> *Id.*; *see also id.* at § 10.525.

<sup>6</sup> *See P.B.*, *supra* note 4; *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 16, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 23, 2020  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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