

FACTUAL HISTORY

On June 11, 2019 appellant, then a 65-year-old rural carrier, filed an occupational disease claim (Form CA-2) alleging that she developed a rotary cuff tear due to factors of her federal employment, including repetitive motion of the shoulders when picking up and throwing mail. She indicated that she first became aware of her condition and first realized its relationship to her federal employment on December 5, 2018. Appellant stopped work on May 11, 2019. OWCP accepted the claim for rotator cuff tear or rupture of the right shoulder. It paid appellant wage-loss compensation on the supplemental rolls commencing July 5, 2019, and on the periodic rolls commencing August 18, 2019.

On April 13, 2020 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. No response was received within the time allotted.

No reply was received.

By decision dated June 9, 2020, OWCP suspended appellant's compensation benefits, effective June 21, 2020, for failure to complete the EN1032 form as requested. It advised that, if appellant were to complete and return 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 R.S.*, 20-0580 (issued September 14, 2020); *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).

⁵ *Id.*; *see also id.* at § 10.525.

ANALYSIS

The Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective June 21, 2020, for failure to complete the EN1032 form as requested.

On April 13, 2020 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 the OWCP letter was sent to appellant's last known address of record 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 of record is presumed to be received by the addressee.⁷

The record indicates that appellant failed to timely submit the EN1032 form within 30 days of the OWCP 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 June 21, 2020, pursuant to 20 C.F.R. § 10.528.

CONCLUSION

The Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective June 21, 2020, for failure to complete the EN1032 form as requested.

⁶ See *R.S.*, *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).

⁷ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the June 9, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 2, 2021
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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