

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

C.W., Appellant)	
)	
and)	Docket No. 21-0610
)	Issued: October 19, 2021
)	
U.S. POSTAL SERVICE, POST OFFICE,)	
Baltimore, MD, Employer)	
)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge

JURISDICTION

On March 1, 2021 appellant filed a timely appeal from a February 10, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

ISSUE

The issue is whether OWCP properly suspended appellant's compensation benefits, effective February 23, 2021, for failure to complete an EN1032 form as requested.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that following the February 10, 2021 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 additional evidence for the first time on appeal. *Id.*

FACTUAL HISTORY

On December 31, 1998 appellant, then a 54-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on December 16, 1998 she was injured in the performance of duty. OWCP accepted the claim for sprain of lumbosacral joint and ligament. The record reflects that OWCP paid appellant wage-loss compensation on the periodic rolls as of October 6, 2002.

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 if any, within the past 15 months.

On December 15, 2020 OWCP informed appellant that federal regulations required her to execute an affidavit regarding any earnings received or employment performed during the previous 15 months and that an EN1032 form was enclosed for that purpose. It advised that she had to completely answer all questions on the form and that her benefits would be suspended pursuant to 20 C.F.R. § 10.528 if a completed form was not received by OWCP within 30 days. OWCP mailed the letter to appellant's last known address of record. No response was received.

By decision dated February 10, 2021, OWCP suspended appellant's wage-loss compensation, effective February 23, 2021, for failing to submit the EN1032 form as requested. It advised that, if she completed and returned an enclosed copy of the EN1032 form, it would restore her wage-loss compensation retroactively to the date of suspension.

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 retroactively 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* *R.B.*, Docket No. 20-0176 (issued June 25, 2020); *A.H.*, Docket No. 15-0241 (issued April 3, 2015).

⁵ *Id.* *See also* *J.M.*, Docket No. 20-1310 (issued April 21, 2021); *P.M.*, Docket No. 16-0382 (issued May 19, 2016).

ANALYSIS

The Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective February 23, 2021, due to her failure to complete an EN1032 form as requested.

On December 15, 2020 OWCP provided appellant with the EN1032 form and notified her that federal regulations required her to complete the form and answer all questions concerning her employment or earnings. It properly notified her that, if she did not completely answer all questions and return the form within 30 days, her benefits would be suspended. The record reflects that OWCP's 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 is presumed to be received by the addressee.⁷

Appellant failed to timely submit an EN1032 form within 30 days of OWCP's request. She was receiving wage-loss compensation and was, therefore, required to fully complete and submit the EN1032 form in a timely manner.⁸ Appellant's failure to file an EN1032 form within 30 days properly resulted in the suspension of her wage-loss compensation. Thus, the Board finds that OWCP properly suspended her wage-loss compensation benefits, effective February 23, 2021, pursuant to 20 C.F.R. § 10.528 and informed her that wage-loss benefits would be retroactively reinstated when the EN1032 form was received.⁹

CONCLUSION

The Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective February 23, 2021, for failure to submit a completed EN1032 form as requested.

⁶ See *J.H.*, Docket No. 20-0785 (issued October 23, 2020); *Kenneth E. Harris*, 54 ECAB 502 (2003).

⁷ *Id.*

⁸ See *R.S.*, Docket No. 20-0580 (issued September 14, 2020); *A.S.*, Docket No. 17-1530 (issued November 7, 2017).

⁹ See *R.B.*, *supra* note 4; *P.M.*, *supra* note 5; *M.W.*, Docket No. 15-0507 (issued June 18, 2015).

ORDER

IT IS HEREBY ORDERED THAT the February 10, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 19, 2021
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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