

ISSUE

The issue is whether OWCP properly suspended appellant's wage-loss compensation, effective March 4, 2021, due to her failure to complete a Form EN1032 as requested.

FACTUAL HISTORY

On November 16, 1988 appellant, then a 36-year-old federal employee, filed a traumatic injury claim (Form CA-1) alleging that on October 11, 1988 she developed an emotional condition while in the performance of duty. OWCP accepted the claim for major depressive disorder single episode. It paid appellant wage-loss compensation on the supplemental rolls, commencing March 24, 2002, and then on the periodic rolls commencing June 16, 2002.

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

On December 15, 2020 OWCP notified appellant 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. It mailed the notice to her last known address of record. No response was received.

On February 10, 2021 OWCP resent the December 15, 2020 EN1032 form and notified appellant 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. It mailed the notice to her last known address of record.

On February 24, 2021 appellant submitted a partially-completed Form EN1032 dated February 17, 2021. She did not respond to Part D – Other Federal Benefits or Payments (1)(b).

By decision dated March 4, 2021, OWCP suspended appellant's wage-loss compensation benefits, effective March 4, 2021, due to her failure to complete the EN1032 form, as requested. It advised that, if she were to complete and return the form, her wage-loss 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

³ 5 U.S.C. § 8106(b).

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

ANALYSIS

The Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective March 4, 2021, due to her failure to complete the EN1032 form as requested.

On December 15, 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 form within 30 days, her benefits would be suspended. The record reflects that OWCP's letter was properly 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

On February 10, 2021 OWCP resent the December 15, 2020 EN1032 form and notified appellant 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. It mailed the notice to her last known address of record. Appellant responded on February 17, 2021, but submitted an incomplete EN1032 form. She failed to respond to Part D regarding whether she had received either a regular retirement check or disability retirement check during the past 15 months.

The record indicates that appellant failed to submit the EN1032 form within 30 days of OWCP's request. OWCP was paying her wage-loss compensation on the periodic rolls and she was, therefore, required to complete the EN1032 form. Appellant's failure to file an EN1032 form within 30 days required the suspension of her wage-loss compensation. Thus, the Board finds that OWCP properly suspended her wage-loss compensation, effective March 4, 2021, pursuant to 20 C.F.R. § 10.528.

CONCLUSION

The Board finds that OWCP properly suspended appellant's wage-loss compensation, effective March 4, 2021, due to her failure to complete an EN1032 form as requested.

⁴ 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).

⁵ *Id.*; *see also id.* at § 10.525.

⁶ *See 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 March 4, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 27, 2021
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

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