



## **ISSUE**

The issue is whether OWCP properly suspended appellant's wage-loss compensation benefits, effective January 3, 2022, due to his failure to submit a Form EN1032, as requested.

## **FACTUAL HISTORY**

This case has previously been before the Board on a different issue.<sup>3</sup> The facts and circumstances as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On February 21, 1986 appellant, then a 42-year-old special agent, filed a traumatic injury claim (Form CA-1) alleging on that date he injured his back moving office furniture while in the performance of duty. OWCP accepted the claim for low back strain, herniated discs at L3-4 and L4-5, and displacement of lumbar intervertebral disc without myelopathy. Appellant stopped work on February 21, 1986. OWCP paid wage-loss compensation on the periodic rolls beginning July 30, 1988.

OWCP periodically requested that appellant submit 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 November 8, 2021 it provided appellant with a Form EN1032 for completion.

In a January 3, 2022 letter, OWCP informed appellant that federal regulations required him to execute an affidavit relative to any earnings or employment during the previous 15 months and that a Form EN1032 was enclosed for that purpose. It notified him that he must fully answer all questions on the enclosed Form EN1032 and return it within 30 days or his benefits would be suspended. OWCP mailed the notice to appellant's last known address of record. No response was received within the time allotted.

By decision dated January 3, 2022, OWCP suspended appellant's compensation benefits, effective that date, due to his failure to submit the Form EN1032, as requested. It noted that, if he completed and returned the enclosed copy of the Form EN1032, his 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.<sup>4</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> Docket No. 09-1241 (issued January 14, 2010); Docket No. 10-0867 (issued January 5, 2011).

<sup>4</sup> 5 U.S.C. § 8106(b).

to work, which the employee has performed for the prior 15 months.<sup>5</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>6</sup>

### ANALYSIS

The Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective January 3, 2022, due to failure to complete a Form EN1032, as requested.

On January 3, 2022 OWCP provided appellant with a Form CA-1032 and notified him that federal regulations required him to complete the form and answer all questions concerning his employment or earnings. It properly notified him that, if he did not completely answer all 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 address of record, and there is no indication that it was returned as undeliverable.<sup>7</sup>

The record shows no response prior to the January 3, 2022 OWCP decision suspending appellant's benefits. Thus, the Board finds that OWCP properly suspended appellant's compensation benefits, effective January 3, 2022, pursuant to 20 C.F.R. § 10.528.<sup>8</sup>

### CONCLUSION

The Board finds that OWCP has met its burden of proof to suspend appellant's compensation for failing to submit a Form CA-1032, as requested.

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<sup>5</sup> 20 C.F.R. § 10.528.

<sup>6</sup> *Id.*; *see also id.* at § 10.525.

<sup>7</sup> *C.C.*, Docket No. 17-0043 (issued June 15, 2018); *A.H.*, Docket No. 15-0241 (issued April 3, 2015). (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>8</sup> *See W.L.*, Docket No. 18-1051 (issued March 24, 2021); *M.W.*, Docket No. 15-0507 (issued June 18, 2015); *see also James A. Igo*, 49 ECAB 189 (1997).

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 3, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 13, 2022  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

A handwritten signature in cursive script, appearing to read "J. D. McGinley".

James D. McGinley, Alternate Judge  
Employees' Compensation Appeals Board